

October 10, 2006

Honorable Board of Supervisors

383 Kenneth Hahn of Administration

County of Los Angeles

500 West Temple Street Los Angeles, CA 90012

Los Angeles County Board of Supervisors

> Gloria Molina First District

Yvonne B. Burke Second District

Zev Yaroslavsky Third District

> Don Knabe Fourth District

> > Fifth District

Dear Supervisors:

Fourth District
Michael D. Antonovich

AGREEMENT WITH PER-SE TECHNOLOGIES FOR OPERATING ROOM SCHEDULING OFFICE SYSTEM

(All Districts) (3 Votes)

Bruce A. Chernof, MD Director and Chief Medical Officer

John R. Cochran III
Chief Deputy Director

William Loos, MD Senior Medical Officer

313 N. Figueroa Street, Los Angeles, CA 90012

> Tel: (213) 240-8101 Fax: (213) 481-0503

> > www.ladhs.org

To improve health through leadership, service and education.

CIO RECOMMENDATION: APPROVE MATH MODIFICATIONS [] DISAPPROVE []

IT IS RECOMMENDED THAT YOUR BOARD:

Approve and instruct the Director of Health Services, or his designee, to sign an agreement, substantially similar to Exhibit I, with PST Products, LLC, dba Per-Se Technologies, for the provision of the Operating Room Scheduling Office System (ORSOS) software implementation, upgrade, software maintenance and support, modifications, consulting services, optional professional services as well as acquisition of third party software to supplement the functionality of the upgraded system. The agreement's maximum County obligation is \$4,801,252, including any sales tax, if applicable, from the date of the Board approval through August 31, 2011, with the option for the Director of Health Services to extend the agreement for three (3) additional one (1) year terms.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION(S):



In approving this recommended action, the Board is authorizing the Director of Health Services, or his designee, to sign an agreement to upgrade ORSOS to a new version and database platform at Harbor-UCLA (HUMC), Martin Luther King, Jr./Drew Medical Center (KDMC) and Rancho Los Amigos National Rehabilitation Center (RLANRC) and to implement ORSOS at Los Angeles County + University of Southern California Medical Center (LAC+USCMC) and Olive View-UCLA Medical Center (OVUMC). For each of these five Department

www.ladhs.org

of Health Services (DHS) medical centers, the agreement provides for software implementation services, upgrade, software maintenance and support, consulting services, optional professional services as well as acquisition of third party software to supplement the functionality of the upgraded system. The goal of the Department is to standardize the operating rooms' software application systems at the five DHS medical facilities.

DHS is implementing the upgraded version of ORSOS at the five DHS medical centers to accomplish the following objectives: 1) to provide the ability to standardize the software used by the facilities for operating room (OR) scheduling and inventory management, 2) to comply with the Health Insurance Portability and Accountability Act (HIPAA) Security Rules, 3) to support operational efforts to improve OR throughout the facilities with up-to-date scheduling practices, and 4) to improve overall productivity of a fully integrated and automated system.

Implementation of Strategic Plan Goals

The recommended action is consistent with the County Strategic Plan Goal 3: Organizational Effectiveness as this project seeks to improve the efficiency and effectiveness of the Operating Rooms within the Department. This project is also consistent with County Strategic Plan Goal 4: Fiscal Responsibility as the project seeks to improve the management of Operating Room services.

The recommended action is also consistent with the Department's Strategic Plan for a five-year implementation of Plan Objective No. 6 "Increase Information Systems and Telecommunication Efficiencies". This project is identified in the current Health Services Administration – Information Resources Management Business Automation Plan, also known as BAP.

This action meets both County and DHS' strategic goals by improving the health care provided by DHS and enhancing the health of the residents of Los Angeles County.

FISCAL IMPACT/FINANCING:

The maximum County obligation for this agreement is \$4,801,252 for HUMC, LAC+USCMC, KDMC, OVUMC and RLANRC.

Included in the maximum County obligation is approximately \$108,000 reserved for sales tax. Funds are only payable to the contractor in the event legislation requiring taxation of electronically delivered software and maintenance becomes effective during the term of this agreement.

Funding for this Agreement is included in the Fiscal Year 2006-07 Health Services Administration Adopted Budget and will be requested as a continuing appropriation in future fiscal years.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS:

On March 8, 1994, The County's Purchasing Agent approved Agreement No. 55325 with Per-Se Technologies (Per-Se), previously known as Atwork, for the acquisition of a perpetual no-fee site license for ORSOS "Pervasive" platform and system maintenance for five medical facilities. Both LAC+USCMC and OVUMC (new facilities) opted not to make use of Agreement No. 555325 at the time.

While ORSOS has been maintained in accordance with Agreement No. 555325 at each of HUMC, KDMC and RLANRC (existing facilities), LAC+USCMC developed its own surgery scheduling system, and OVUMC has been using the Sigma Surgery Scheduling System. Both of these systems lack the enhanced tools and functionality that ORSOS can provide and are not HIPAA compliant. Since High Desert Health System (High Desert) patients are referred to OVUMC or Antelope Valley Hospital for surgical procedures, ORSOS will not be installed at High Desert. Under the proposed agreement, the legacy systems at the LAC+USCMC and OVUMC will be replaced by ORSOS.

As part of the proposed agreement, ORSOS will be migrated from the current "Pervasive" platform to a relational database management system Oracle platform at the three existing facilities and implemented anew at the two new facilities. The system will have field level security, a full audit trail and automatic logout of idle workstations and will be HIPAA and Joint Commission on Accreditation of Healthcare Organizations (JCAHO) compliant.

To meet the upgraded ORSOS hardware requirements, the system hardware is also being upgraded. The Internal Services Department issued a Purchase Order (PO) Agreement Number S40514 for \$309,032 for the procurement of two new servers for each of the five medical centers, for a total of ten, and corresponding maintenance.

The upgrade and/or implementation activities at each medical center will be entered and tracked in the Information Technology Tracking System.

This agreement provides for the acquisition of services and technical expertise which DHS does not posses for a project of this complexity in-house. Under the proposed agreement, in addition to the ORSOS software, Per-Se will provide professional services to effectuate system upgrade, migration, installation, interface implementation, software maintenance, training, project management and technical support services at the five DHS medical facilities for the initial term commencing upon Board approval and through August 31, 2011, and, at County's option, for up to three (3) years thereafter.

The agreement includes "Pool Dollars" to fund the provision of optional postimplementation work, including application modifications, consisting of interfaces, application customizations and additional software, and professional services, consisting of additional training and consulting services to cover future troubleshooting, etc.

Although this agreement is close to the Board's monetary threshold for outside counsel review, given the existing contractual relationship with Per-Se and the fact that the bulk of the contract sum comes from the maintenance and support services for an application licensed under an existing PO, outside counsel was not engaged for this agreement.

The agreement includes the latest Board mandated provisions, including Business Associate obligations under HIPAA and Compliance with Jury Service Program and the Safely Surrendered Baby, as well as all of County's Information Technology (IT) agreement standard terms and conditions, including intellectual property indemnification, warranties, credits assessment for Per-Se's failure to timely deliver its work or correct deficiencies and payment withholds. The agreement's insurance and indemnification terms, including a negotiated limitation of remedies and liability provision limiting either party's liability up to the greater of the applicable insurance limits or the fees paid to Per-Se under the proposed agreement, received concurrence from the Chief Administrative Office, Risk Management Operations.

The Chief Information Officer concurs with the Department's recommendation.

County Counsel has approved the attached agreement (Exhibit I) as to form.

Attachment A provides additional information.

CONTRACTING PROCESS:

Per-Se has been contracted for the provision of ORSOS at the five (5) DHS medical centers, and has been the sole source provider of the Operating Room Scheduling Office System and related services at the three (3) of the five (5) medical facilities.

* -- --

To ensure operating room system standardization across the DHS medical centers and system maintenance continuity and due to the proprietary and confidential nature of ORSOS, Per-Se is the best candidate for performing the services described in the agreement.

DHS did not advertise the proposed agreement on the Office of Small Business' Countywide web site as a contracting opportunity, since the agreement is for the continued provision of services, requiring specialized knowledge of proprietary software, which the current contractor is uniquely qualified to perform.

A sole source letter is on file with the Department.

IMPACT ON CURRENT SERVICES (OR PROJECTS):

Approval of the agreement will allow the Department to provide a standardized reporting system, cross train physicians, nurses and all ancillary personnel on the use of ORSOS. The system integration will fully automate the operating room system and improve overall productivity.

CONCLUSION

When approved, the Department requires three signed copies of the Board's action.

Reviewed by:

Chief Information Officer

Respectfully submitted,

Bruce A. Chernof, M. D.

Director and Chief Medical Officer

BAC: ar

Attachments

c: Chief Administrative Officer
County Counsel
Executive Officer, Board of Supervisors
Chief Information Officer
Information System Commission
Director of Internal Services

ATTACHMENT A

SUMMARY OF AGREEMENT

1. TYPE OF SERVICE:

PST Products, LLC, dba Per-Se Technologies will provide technical professional services to effectuate system upgrade, migration, installation, interface implementation, software maintenance, training, project management and technical support services for the Operating Room Scheduling Office System (ORSOS) at Harbor-UCLA Medical Center, Los Angeles County + University of Southern California Medical Center, Martin Luther King, Jr. /Drew Medical Center, Olive View-UCLA Medical Center and Rancho Los Amigos National Rehabilitation Center.

2. AGENCY ADDRESS AND CONTACT PERSON:

PST Products, LLC dba Per-Se Technologies Kristian Stauffer 300 West Morgan Street, Suite 175 Durham, NC 27701

Facsimile: (919)564-2184

Electronic mail: kristian.stauffer@per-se.com

3. <u>TERM</u>:

Effective upon the date of Board of Supervisors' approval through August 31, 2011.

4. FINANCIAL INFORMATION:

The Agreement is for \$4,801,252. Funding is included in the Department Fiscal Year 2006-07 Adopted Budget and will be requested as a continuing appropriation in future fiscal years.

5. PRIMARY GEOGRAPHIC AREA TO BE SERVED:

All Districts

6. <u>DESIGNATED ACCOUNTABLE FOR PROGRAM EVALUATION:</u>

Kathy McAdam, Project Director

7. <u>APPROVALS</u>:

Program Director: Kathy McAdam

Contracts and Grants: Cara O'Neill, Chief

County Counsel (approval as to form): Victoria Mansourian, Deputy County Counsel

CIO ANALYSIS

AGREEMENT WITH PER-SE TECHNOLOGIES FOR OPERATING ROOM SCHEDULING OFFICE SYSTEM

(All Districts) (3-Votes)

CIO	RECO	OMMENDATION:	APPROVE DISAPPROVE	APPROVE V	WITH MODIFICATION					
	New	Type: Contract Source Contract	Contract A		Contract Extension Other					
New/Revised Contract Term: Base Term: 5 Yrs # of Option Yrs 3										
\boxtimes	Softv	Components: vare essional Services	Hardware		Telecommunications					
Project Executive Sponsor: Paul Fu, Jr., M.D., MPH										
Budg	get In	formation :								
Y-T-I	O Cor	ntract Expenditures	\$							
Requ	ueste	d Contract Amount	\$ 4,801,252							
Aggr	egate	Contract Amount	\$ 4,801,252							
Proi	ect B	ackground:								
Yes	No		Q	uestion						
Yes			Q slatively mandated?	uestion						
Yes		Is this project legis			et?					
Yes		Is this project legis Is this project subv Is this project/appl	slatively mandated?	percentage is offs (shared use or inte	erfaced) other					
	No 	Is this project legis Is this project subv Is this project/appl	slatively mandated? vented? If yes, what ication applicable to	percentage is offs (shared use or inte	erfaced) other					
	No 🖂	Is this project legis Is this project subv Is this project/appl departments? If y	slatively mandated? vented? If yes, what ication applicable to es, name the other d	percentage is offs (shared use or inte	erfaced) other					
Stra	No 🖂	Is this project legis Is this project subv Is this project/appl departments? If you Alignment:	slatively mandated? vented? If yes, what ication applicable to es, name the other d	percentage is offset (shared use or inte epartment(s) involues uestion	erfaced) other ved?					
Stra	No 🖂	Is this project legis Is this project subvice its subvice in the subvice its subvice in the subvice its subvice in the subvice its subvice	elatively mandated? vented? If yes, what ication applicable to es, name the other d g ignment with the Cousistent with the curren	percentage is offset (shared use or integenerate (s) involu- epartment(s) involu- uestion Inty of Los Angele Intly approved Depart	erfaced) other ved? s Strategic Plan? artment Business					
Stra	No 🖂	Is this project legis Is this project subv Is this project/appl departments? If you Alignment: Is this project in al Is this project cons Automation Plan? Does the project's Directions Docume	clatively mandated? vented? If yes, what ication applicable to es, name the other desistent with the current technology solution ent?	percentage is offset (shared use or integenerate (s) involu- uestion unty of Los Angelently approved Department	erfaced) other ved? s Strategic Plan? artment Business ty of Los Angeles IT					
Stra Yes	No 🖂	Is this project legis Is this project subv Is this project/appl departments? If you Alignment: Is this project in al Is this project cons Automation Plan? Does the project's Directions Docume Does the project to IT Standards? The development of the Microsystems plat	elatively mandated? vented? If yes, what ication applicable to es, name the other desistent with the Countries technology solution ent? echnology solution countries project expands are preferred technology form.	percentage is offset (shared use or integer (shared use or integer (shared use or integer (shared use or integer (shared use of Los Angele of	erfaced) other ved? s Strategic Plan? artment Business					

Project/Contract Description:

The Board is being requested to delegate authority to the Director of Health Services or his designee to execute an agreement with Per-Se Technologies (PST) to provide Operating Room Scheduling Office System (ORSOS) software maintenance and professional services to upgrade the software to a new version and database platform at Harbor-UCLA (HUMC), Martin Luther King, Jr./Drew Medical Center (KDMC), and Rancho Los Amigos National Rehabilitation Center (RLANRC) and; to implement ORSOS at Los Angeles County + University of Southern California Medical Center (LAC+USCMC) and Olive View-UCLA Medical Center (OVUMC). The professional services also include ORSOS support services for all five Department of Health Services' (DHS) facilities. The Agreement also provides options to acquire services to perform application software customizations, consulting services or additional software products.

The goal of the Department is to use a common operating room software application at the five DHS medical facilities, thereby providing the same operating room (OR) scheduling and inventory management capability at each facility.

DHS is upgrading to the ORSOS/One-Call system to accomplish the following objectives: 1) provide the ability to standardize software used by the facilities' to manage OR scheduling and inventory management systems; 2) comply with the Health Insurance Portability and Accountability Act (HIPAA) Security Rules; 3) support clinical and operational efforts to improve OR throughput with improved scheduling practices; 4) cross train the physicians, nurses and other ancillary staff; and 5) improve the overall productivity provided by a fully integrated and automated system.

Background:

The DHS implemented and has been using the ORSOS for more than a decade in three of its five medical centers. The OV-UCLAMC has been using a commercial software product that is no longer supported by the vendor who originally provided the software. LAC+USCMC is currently using an internally developed application for OR scheduling. Implementation of a common system will provide a consistent tool of the management of OR services in each medical center. This will improve the Department's ability to collect comparative data and pursue the development of "best practices" and procedures in each facility.

The three (3) facilities currently using ORSOS are using an older version of the software. Services provided under this agreement will provide them with project management services as well as technical services to upgrade to the current version of the software and to migrate the existing data to the new hardware and software version. OV-UCLAMC and LAC+USCMC will utilize the project management and implementation services acquired under this agreement. OV-UCLAMC's and LAC+USCMC's current OR scheduling data cannot be converted to the new system. DHS indicates that they lack sufficient technical and project management resources to support this application and they are including optional services to address this ongoing need.

Project Justification/Benefits:

The upgrade of the ORSOS software in the facilities where it is currently used and the implementation of the product at OV-UCLAMC and LAC+USCMC allows DHS to begin implementing automated schedules and procedures that will increase the number of surgeries performed in their operating rooms per day. Improvements in this area will increase patient satisfaction (reducing the number of times scheduled surgeries are delayed) and reduce costs related to un-reimbursed patient days due to delayed surgeries.

Your Board's approval of this agreement will also allow OV-UCLAMC to begin replacement of their current OR scheduling application. OV-UCLAMC's current scheduling system was acquired as a commercial product, but the software vendor discontinued development and support for the application more than seven (7) years ago and the hardware platform (server and operating system) are no longer maintained by their manufacturer.

Project Metrics:

The metrics that are the best barometer of DHS' success in achieving their initial objectives will be the acceptance and use of the scheduling system by the clinical staff. This can be evaluated by comparing the number of scheduled surgeries against emergency surgeries. There should be an increase in the number of surgeries scheduled. They can also track the number of surgeries managed in the system against the total surgeries performed. Over the months following the implementation of the system, DHS should also see an increase in the number of surgeries performed (improved utilization) and a reduction in the number of canceled surgeries and related Medi-Cal denied days related to delayed surgeries.

Impact On Service Delivery Or Department Operations, If Proposal Is Not Approved:

Approval of this agreement and successful implementation of the system at each DHS medical center will improve the delivery of inpatient and same day surgeries in each facility. The effective use of the scheduling and inventory management function of the software will reduce cancelled surgeries due to overlaps in surgeries, lack of required instruments, etc. The improved use of scheduling will also allow the facilities to improve the number of surgeries performed in each OR thereby improving or shortening the lead required for non-emergent surgery.

Alternatives Considered:

The Department's goal to have each facility using a common software product for OR scheduling and their prior investment in software licenses for each medical facility, required that they use Per-Se for the desired services. The ORSOS software is a proprietary product of Per-Se and they are best positioned to provide the upgrade, implementation and support services acquired under this agreement.

Project Risks:

The scope of this project poses some risks. The contractor and DHS must jointly agree to a project plan that can be supported by both parties. DHS has indicated that they have limited project management and technical resources available to support this project and have, therefore, expanded the services acquired under this agreement to address this shortage.

Risk Mitigation Measures:

The contract has a well defined Statement of Work which is based on tasks and deliverables that apply to each medical center. The Agreement also requires the contractor to provide two (2) Facility Project Managers to ensure close management and timely reporting on the projects. The first tasks under the Agreement require the development, and County acceptance, of an "Implementation Solution", a system design document and detail project plan for each County facility. These deliverables will allow the Department to assess the progress of the project based on successful and timely completion of the deliverables and project milestones.

The Agreement also requires the contractor to provide two (2) "Facility Project Managers" that will take broader responsibility than usual in managing the overall project, the completion of a business process assessment, and reporting to the established steering committee at each medical center.

Financial Analysis:

The contract maximum over the term of the agreement is \$4,801,252. The contract maximum is comprised of \$1,065,841 in implementation services for the five (5) DHS medical centers. Software maintenance over the term of the agreement, including the optional three (3) one-year extensions, totals \$1,627,754. There are no maintenance charges for the first year (execution through August 31, 2007).

The agreement also includes two (2) years of professional services payments of \$125,000 per quarter for two (2) Contractor's Facility Project Managers; plus an optional year with payments not to exceed \$500,000. The maximum expenditures for the project management services is \$1,500,000.

The agreement also includes a Pool Dollar amount of \$500,000 which can be used over the term of the agreement to purchase additional software, consulting services, custom modifications and training, identified in the agreement.

Based on the report of pending legislation within the State of California, \$107.657 has been included in the contract maximum to cover sales tax if during the term of the agreement the County is required to pay tax on electronically delivered software.

CIO	A	na	ly.	sis	S
Page	e t	5 o	f	5	

CIO Concerns:

None.

CIO Recommendations:

Based on our review of the Agreement and Board letter, we recommend Board approval of the proposed action.

CIO APPROVAL

Date Received: September 14, 2006

Prepared by: Jonathan E. Williams,

Date:

Approved:

Date: 9 28 2006

P:\Drafts\DHS\Orsos\DHS_ ORSOS CIO BRD ANALYSIS 091906.doc



AGREEMENT BY AND BETWEEN COUNTY OF LOS ANGELES AND PST PRODUCTS, LLC D/B/A PER-SE TECHNOLOGIES FOR

OPERATING ROOM SCHEDULING OFFICE SYSTEM (ORSOS)

AT

HARBOR-UCLA, MARTIN LUTHER KING, JR./DREW, LAC+USC, OLIVE VIEW-UCLA MEDICAL CENTERS AND RANCHO LOS AMIGOS NATIONAL REHABILITATION CENTER

not limited to, defense costs and legal, accounting or other expert consulting or professional fees in any way arising from or related to Contractor's use of any subcontractor, including, without limitation, any officers, employees or agents of any subcontractor, in the same manner as required for Contractor, its officers, employees and agents, under this Agreement.

- Notwithstanding County's consent to any subcontracting, Contractor shall remain fully responsible for any and all performance required of it under this Agreement, including those which Contractor has determined to subcontract, including, but not limited to, the obligation to properly supervise, coordinate and perform all work required under this Agreement. All subcontracts shall be made in the name of Contractor and shall not bind nor purport to bind County. Furthermore, County approval of any subcontract shall not be construed to limit in any way Contractor's performance, obligations, or responsibilities, to County, nor shall such approval limit in any way any of County's rights or remedies contained in this Agreement. Additionally, County's approval of any subcontract shall not be construed in any way to constitute the determination of the allowableness or appropriateness of any cost or payment under this Agreement.
- 18.6 County's consent to any subcontracting shall not waive County's right to prior and continuing approval of any and all personnel, including subcontractor employees, providing services under this Agreement. Contractor shall notify its subcontractors of this County's right prior to subcontractors commencing performance under this Agreement. Contractor shall assure that any subcontractor personnel not approved in writing by County shall be immediately removed from the provision of any services under the particular subcontract or that other action is taken as requested by County. Further, in the event that County consents to any subcontracting, such consent shall be subject to County's right to terminate, in whole or in part, any subcontract at any time upon written notice to Contractor when such subcontractor is deemed by County to be in material breach of its subcontract or this Agreement. County shall not be liable or responsible in any way to Contractor, to any subcontractor, or to any officers, employees, or agents of Contractor or any subcontractor, for any claims, demands, damages, liabilities, losses, costs, or expenses, including, but not limited to, defense costs and legal, accounting and other expert, consulting or professional fees, in any way arising from or related to County's exercise of such right.
- 18.7 Notwithstanding County's consent to any subcontracting, Contractor shall be solely liable and responsible for any and all payments and other compensation to all subcontractors, and their officers, employees, agents, and successors in interest, for any services performed by subcontractors under this Agreement.
- In the event that County consents to any subcontracting, for each subcontract entered into by Contractor, Contractor shall deliver to County's Project Director, immediately after the effective date of the subcontract but in no event later than the date any work is performed under the subcontract:
 - 1. A fully executed copy of each subcontract entered into by Contractor;
 - 2. An executed Exhibit E (Contractor Employee Acknowledgment, Confidentiality and Assignment Agreement) for each subcontractor employee approved to perform work under this Agreement; and

- 3. Certificates of insurance and performance security, which establish that the subcontractor maintains all the programs of insurance and performance security required by this Agreement.
- In the event that County consents to any subcontracting, such consent shall apply to each particular subcontract only and shall not be, or be construed to be, a waiver of this Paragraph 18 or a blanket consent to any further subcontracting.

19. DISCLOSURE OF INFORMATION

- 19.1 Contractor shall not disclose any details in connection with this Agreement, including but not limited to any of its terms or conditions or any circumstances which occur during the performance of this Agreement, to any party other than subcontractors approved by County in accordance with Paragraph 18 (Subcontracting) to perform work under this Agreement, except as may be otherwise provided herein or required by law.
- However, in recognizing Contractor's need to identify its services and related clients to sustain itself, County shall not inhibit Contractor from publicizing its role under this Agreement under the following conditions:
 - 1. Contractor shall develop all publicity material in a professional manner.
 - 2. During the term of this Agreement, Contractor shall not, and shall not authorize another to, publish or disseminate any commercial advertisements, press releases, feature articles, or other materials using the name of County without the prior written consent of County's Project Director, which consent shall not be unreasonably withheld.
 - 3. Contractor may, without the prior written consent of County, indicate in its proposals and sales that it has been awarded this Agreement with the County of Los Angeles, provided that the requirements of this Paragraph 19 shall apply.

20. CONFIDENTIALITY

Each party shall maintain the confidentiality of all its records, data and information, including, but not limited to, billing and County records and Application Software, in accordance with all applicable Federal, State and County laws, regulations, ordinances and directives relating to confidentiality, subject to the California Public Records Act and HIPAA, as applicable. The parties agree, unless required by law, not to make each other's confidential information available in any form to any third party for any purpose other than the implementation of this Agreement.

A party's confidential information shall not include information that: (i) is or becomes a part of the public domain through no act or omission of the other party; (ii) was in the other party's lawful possession prior to the disclosure and had not been obtained by the other party either directly or indirectly from the disclosing party; (iii) is lawfully disclosed to the other party by a third party without restriction on the disclosure; or (iv) is independently developed by the other party.

. 2

20.2 Contractor shall inform all of its officers, employees, and agents performing work hereunder of the confidentiality provisions of this Agreement, including those required by HIPAA. Contractor shall provide to County an executed Contractor Employee Acknowledgment, Confidentiality and Assignment Agreement (Exhibit E) for each of its employees performing work under this Agreement in accordance with Paragraph 27 (Independent Contractor Status).

Subject to the provisions of Paragraph 14.1.2 (Limitation of Liability), Contractor shall indemnify, defend and hold harmless County, its officers, employees, and agents, from and against any and all loss, damage, liability, and expense, including, but not limited to, defense costs and legal, accounting and other expert, consulting or professional fees, arising from any disclosure of such records and information by Contractor, its officers, employees, or agents, except for any disclosure authorized by this Paragraph 20.

- With respect to any identifiable information concerning any patient that is obtained by Contractor or any other records and information, Contractor shall: (1) not use any such records or information for any purpose whatsoever other than carrying out the express terms of this Agreement; (2) promptly transmit to County all requests for disclosure of any such records or information; (3) not disclose, except as otherwise specifically permitted by this Agreement, any such records or information to any person or organization other than County without County's prior written authorization that the records are, or information is, releasable; and (4) at the expiration or termination of this Agreement, return all such records and information to County or maintain such records and information according to the written procedures sent to Contractor by County for this purpose.
- Each party acknowledges that a breach by the other of this Paragraph 20 may result in irreparable injury to County that may not be adequately compensated by monetary damages and that, in addition to County's other rights under this Paragraph 20 and at law and in equity, County shall have the right to injunctive relief to enforce the provisions of this Paragraph 20.

21. TERMINATION FOR DEFAULT

21.1 Termination by Contractor

Contractor may, by written notice to County describing County's breach with reasonable specificity to enable County to cure such breach, terminate this Agreement only for the reasons specified in, and as provided in, this Paragraph 21.1 below.

21.1.1 Breach of Confidentiality Obligations

Contractor may terminate this Agreement if County breaches any of its confidentiality obligations under the Agreement, including those set forth in Paragraph 15.7 (Contractor's Intellectual Property), and fails to use reasonable commercial efforts to mitigate the harm resulting from such breach within thirty (30) days, or any greater mutually agreed upon period, of receipt of written notice from Contractor.

21.1.2 Non-Payment

If Contractor does not receive County's payment due within ninety (90) days following County's receipt of the invoice therefor, then Contractor's Project Director, or his/her designee, shall be entitled to escalate County's non-payment to the Chief Information Officer of the Department. If the non-payment is not resolved by the parties within thirty (30) days of Contractor's Project Director's successful contact with the Chief Information Officer of the Department, then Contractor's Project Director, or his/her designee, shall be entitled to further escalate County's non-payment to the Director of the Department. If the non-payment is again not resolved by the parties within thirty (30) days of Contractor's Project Director's successful contact with the Director of the Department, thereafter Contractor may, by a thirty (30) notice to County, suspend or terminate this Agreement for default.

21.2 <u>Termination by County</u>

- County may, by written notice to Contractor, terminate the whole or any part of this Agreement if Contractor, due to its sole fault or the fault of any of its subcontractors, fails to:
 - 1. timely provide and/or satisfactorily perform any task, subtask, deliverable, goods, service or other work within the times specified in this Agreement, including the Implementation Plan; or
 - 2. demonstrate a high probability of timely fulfillment of the performance requirements under this Agreement; or
 - 3. make progress as to endanger performance of this Agreement in accordance with its terms; or
 - 4. perform or comply with any other provisions of this Agreement or materially breaches this Agreement;

and, unless a shorter cure period is expressly provided in this Agreement, does not cure such failure or fails to correct such failure or breach within thirty (30) days (or such longer period as County may authorize in writing) of receipt of written notice from County describing such failure or breach with reasonable specificity to enable Contractor to cure the same, except that Contractor shall not be entitled to any cure period, and County may terminate immediately, in the event that Contractor's failure to perform or comply is not reasonably capable of being cured.

- In the event that County terminates this Agreement in whole or in part as provided in this Paragraph 21 or in Paragraph 23 (Termination for Insolvency), then:
 - 1. Contractor shall promptly return to County any and all of County's confidential information and the County Materials (as defined in Paragraph 15.1 (County Materials) that relate to that portion of the Agreement and work terminated by County; and
 - 2. Contractor shall transfer and deliver to County all completed work and work in progress, in a media reasonably requested by County; and

- 3. Subject to acting reasonably with respect to County's expenditures connected therewith, County shall have the right to procure goods, services, and other work, similar to those so terminated, and Contractor shall be liable to County for, and shall promptly pay to County by cash payment, any and all excess costs incurred by County to procure and furnish such similar goods, services, and other work; and
- 4. Contractor and County shall continue the performance of this Agreement to the extent not terminated under the provisions of Paragraph 23 (Termination for Insolvency) and/or this Paragraph 21; and
- 5. Understanding that County has obligations that it cannot satisfy without use of the System Software provided to County hereunder or an equivalent system, and that a failure to satisfy such obligations could result in irreparable damage to County and the entities it serves, Contractor agrees that in the event of such termination of this Agreement, Contractor shall cooperate with County in the transition of County to a new system, toward the end that there be no interruption of County's day to day operations due to the unavailability of the System during such transition, subject to County paying to Contractor for such services.
- If, after County has given notice of termination under the provisions of this Paragraph 21, it is determined by County that Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to Paragraph 22 (Termination for Convenience).
- The rights and remedies of County provided in this Paragraph 21 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

22. <u>TERMINATION FOR CONVENIENCE</u>

- This Agreement may be terminated, in whole or in part, permanently or from time to time, when such action is deemed by County to be in its best interest. Termination of work hereunder shall be effected by notice of termination to Contractor specifying the extent to which performance of work is terminated and the date upon which such termination becomes effective, which shall be no less than sixty (60) calendar days after the notice is sent. In the event County has purported to terminate this Agreement for default by notice pursuant to Paragraph 21 (Termination for Default) and it has later been determined that Contractor was not in default, no additional notice shall be required upon such determination.
- 22.2 After receipt of a notice of termination, and except as otherwise directed by County:
 - 1. Contractor shall stop work under this Agreement on the date and to the extent specified in such notice; and
 - 2. Contractor shall return to County any and all of County's confidential information and the County Materials (as defined in Paragraph 15.1 (County Materials)) that relate to that portion of the Agreement and work terminated by County; and

- 3. Contractor shall transfer and deliver to County all completed work and work in progress; and
- 4. Contractor shall complete performance of such part of the work as shall not have been terminated by such notice.
- After receipt of a notice of termination, Contractor shall submit to County, in the form and with any certifications as may be prescribed by County, Contractor's termination claim and invoice for its performance up to the effective date of termination. Such claim and invoice shall be submitted promptly, but no later than thirty (30) days from the effective date of termination.

23. <u>TERMINATION FOR INSOLVENCY</u>

- County may terminate this Agreement immediately at any time upon the occurrence of any of the following:
 - 1. <u>Insolvency of Contractor</u>. Contractor shall be deemed to be insolvent if it has ceased to pay or has admitted in writing its inability to pay its debts for at least ninety (90) days in the ordinary course of business or cannot pay its debts as they become due, whether or not a petition has been filed under the United States Bankruptcy Code and whether or not Contractor is insolvent within the meaning of the United States Bankruptcy Code, provided that Contractor shall not be deemed insolvent if it has ceased in the normal course of business to pay its debts which are disputed in good faith and which are not related to this Agreement as determined by County;
 - 2. The filing of a voluntary or involuntary petition to have Contractor declared bankrupt, where the involuntary petition is not dismissed within sixty (60) days;
 - 3. The appointment of a receiver or trustee for Contractor; or
 - 4. The execution by Contractor of an assignment for the benefit of creditors.
- 23.2 The rights and remedies of County provided in this Paragraph 23 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.
- Contractor agrees that if Contractor as a debtor-in-possession, or if a trustee in bankruptcy, rejects this Agreement, County may elect to retain its rights under this Agreement, as provided under Section 365(n) of the United States Bankruptcy Code (11 United States Code, Section 365(n)). Upon written request of County to Contractor or the trustee in bankruptcy, as applicable, Contractor or such trustee shall allow County to exercise all of its rights and benefits under this Agreement including, without limitation, such Section 365(n) (including, without limitation, the right to continued use of all source and object code versions of the System Software and related Documentation), and shall not interfere with the rights and benefits of County as provided therein. The foregoing shall survive the termination or expiration of this Agreement for any reason whatsoever.

24. <u>TERMINATION FOR IMPROPER CONSIDERATION</u>

- 1

- County may, by written notice to Contractor, immediately terminate the right of Contractor to proceed under this Agreement if it is found that consideration, in any form, was offered or given by Contractor, either directly or through an intermediary, to any County officer, employee or agent with the intent of securing this Agreement or securing favorable treatment with respect to the award, Amendment or extension of the Agreement or the making of any determinations with respect to Contractor's performance pursuant to this Agreement. In the event of such termination, County shall be entitled to pursue the same remedies against Contractor as it could pursue in the event of default by Contractor.
- 24.2 Contractor shall immediately report any attempt by a County officer or employee to solicit such improper consideration. The report shall be made either to County manager charged with the supervision of the employee or to County's Auditor-Controller Employee Fraud Hotline at (213) 974-0914 or (800) 544-6861.
- Among other items, such improper consideration may take the form of cash, discounts, services, the provision of travel or entertainment, or tangible gifts.

25. EFFECT OF TERMINATION

In addition to any other rights and remedies of the terminating party, upon termination of this Agreement, whether for cause or at will:

- 1. County shall have the right to use the Application Software, or Component thereof, as set forth in Paragraph 11.2 (License) that is not terminated under Paragraph 12.4 (Failed Testing) or Paragraph 16.4 (Failure to Provide Remedial Measures) and, in the event one of the Release Conditions is satisfied, to use the Source Code as set forth in Paragraph 11.3 (Source Code), all subject to the terms of this Agreement; and
- 2. County shall pay Contractor all monies due in accordance with the terms of the Agreement for the work completed up to the time of termination; and
- 3. Contractor shall return to County all monies paid by County, yet unearned by Contractor.

26. RECORDS AND AUDITS

Contractor shall maintain accurate and complete financial records of its activities and operation relating to this Agreement in accordance with generally accepted accounting principles. Contractor shall also maintain accurate and complete employment and other records relating to its performance of this Agreement, provided such access rights do not constitute an unlawful invasion of the privacy rights of any Contractor employee and would not in the reasonable opinion of Contractor subject Contractor to legal liability. Contractor agrees that County, or its authorized representatives, shall have access to and the right to examine, audit, excerpt, copy, or transcribe any pertinent transaction, activity, or records relating to this Agreement to the extent legally permissible. All such material, including, but not limited to, all financial records, employment records including time cards to the extent legally permissible, and proprietary data and information, shall be kept and maintained by

• ------

Contractor and shall be made available to County electronically or otherwise during the term of this Agreement and for a period of five (5) years thereafter, unless County's written permission is given to dispose of any such material prior to such time. All such material shall be maintained by Contractor at a location in Los Angeles County. If any such material is located outside Los Angeles County, then, at County's option, Contractor shall pay County for travel, per diem, and other costs incurred by County to examine, audit, excerpt, copy or transcribe such material at such other location, provided that Contractor's liability for such County incurred costs shall be subject to the transportation, meals and lodging expenditure limits set forth in the then current Chapter 5.40 (Travel and Other Expenses) of the Los Angeles County Code.

- In the event that an audit is conducted of Contractor specifically regarding this Agreement by any Federal or State auditor, or by any auditor or accountant employed by Contractor or otherwise, then Contractor shall file a copy of such audit report with County's Auditor-Controller within thirty (30) days of Contractor's receipt thereof, unless otherwise provided by applicable Federal or State law or under this Agreement. County will make a reasonable effort to maintain the confidentiality of such audit report(s).
- Failure on the part of Contractor to comply with any of the provisions of this Paragraph 26 shall constitute a material breach of this Agreement upon which County may terminate or suspend this Agreement.
- Beginning one (1) year after the Effective Date and every year thereafter, until the expiration or termination of this Agreement, Contractor shall submit to County a complete set of financial statements for the preceding Fiscal Year. Such statements shall be no more than eighteen (18) months old at the time of submission to County and shall, at a minimum, include a Balance Sheet (Statement of Financial Position), and Income Statement (Statement of Operations). If audited statements are available, they shall be submitted to meet this requirement. In addition, Contractor shall submit a statement regarding any pending litigation since the Contractor last reported same to County. County reserves the right to request these financial statements on a more frequent basis and will so notify Contractor in writing.

27. <u>INDEPENDENT CONTRACTOR STATUS</u>

- This Agreement is by and between County and Contractor and is not intended and shall not be construed to create the relationship of agent, servant, employee, partnership, joint venture or association as between County and Contractor. The employees and agents of one party are not and shall not be, or construed to be, the employees or agents of the other party for any purpose whatsoever. Contractor shall function as, and in all respects is, an independent contractor.
- Contractor shall be solely liable and responsible for providing to, or on behalf of, all persons performing work pursuant to this Agreement, all compensation and benefits. County shall have no liability or responsibility for the payment of any salaries, wages, unemployment benefits, disability benefits, Federal, State, or local taxes, or other compensation, benefits, or taxes for any personnel provided by or on behalf of Contractor.

- Contractor shall be solely liable and responsible for providing all workers' compensation insurance and benefits, liability insurance, employer taxes, compensation, and benefits to, or on behalf of, all persons performing work pursuant to this Agreement.
- Notwithstanding the provisions of this Paragraph 27, the employees and agents of Contractor shall, while on the premises of County, comply with all rules and regulations of the premises, including, but not limited to, security requirements.
- 27.5 Contractor shall provide to County an executed Contractor Employee Acknowledgment, Confidentiality and Assignment Agreement (Exhibit E) for each of its employees performing work under this Agreement. Such agreements shall be delivered to County's Project Manager at the address set forth in Section I (County's Key Personnel of Exhibit G (Administration of Agreement), on or immediately after the Effective Date, but in no event later than the date any such employee first performs work under this Agreement.

28. WARRANTY AGAINST CONTINGENT FEES

- 28.1 Contractor represents and warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon any agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by Contractor for the purpose of securing business.
- For breach of this warranty, County shall have the right to terminate this Agreement for default and, at its sole discretion, deduct from the Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

29. MOST FAVORED PUBLIC ENTITY

If Contractor's prices decline, or should Contractor, at any time during the term of this Agreement, provide the same goods or services under similar quantity and delivery conditions to the State of California or any county, municipality, or district of the State with substantially similar requirements as those of County at prices below those set forth in this Agreement, then such lower prices shall be immediately extended to County for future acquisitions under this Agreement. County shall have the right, at County's expense, to utilize a County auditor or an independent auditor to verify Contractor's compliance with this Paragraph 29 by review of Contractor's books and records.

30. <u>CONFLICT OF INTEREST</u>

No County employee whose position with County enables such employee to influence the award of this Agreement or any competing agreements, and no spouse or economic dependent of such employee, shall be employed in any capacity by Contractor or have any other direct or indirect financial interest in this Agreement. No officer or employee of Contractor, who may financially benefit from the performance of work hereunder, shall in any way participate in County's approval or ongoing evaluation of such work, or in any way attempt to unlawfully influence County's approval or ongoing evaluation of such work.

- Contractor shall comply with all conflict of interest laws, ordinances and regulations now in effect or hereafter to be enacted during the term of this Agreement. Contractor warrants that it is not now aware of any facts which do or could create a conflict of interest. If Contractor hereafter becomes aware of any facts, which might reasonably be expected to create a conflict of interest, it shall immediately make full written disclosure of such facts to County. Full written disclosure shall include, but is not limited to, identification of all persons implicated and a complete description of all relevant circumstances.
- Contractor, its relatives, employees and the relatives of employees shall not bid at either Public Administrator's personal or real property auctions. Further, Contractor, its relatives, employees and the relatives of employees shall not rent property that is under the auspice of the Public Administrator.
- Failure by Contractor to comply with the provisions of this Paragraph 30 shall constitute a material breach of this Agreement.

31. <u>COUNTY'S QUALITY ASSURANCE PLAN</u>

County, or its agent, will evaluate Contractor's performance under this Agreement on not less than an annual basis. Such evaluation will include assessing Contractor's compliance with the terms, conditions and performance standards of this Agreement. Contractor deficiencies, which County, acting reasonably, determines are severe or continuing and that may place performance of this Agreement in jeopardy, if not corrected, will be reported to County's Board of Supervisors along with a notice to Contractor. The report will include improvements and/or corrective action measures taken by County and Contractor. If improvement does not occur consistent with the corrective action measures within thirty (30) days of County's notice of Contractor deficiencies, County may terminate this Agreement, in whole or in part, pursuant to Paragraph 21 (Termination for Default) or Paragraph 22 (Termination for Convenience) or impose other penalties as specified in this Agreement, subject to the Dispute Resolution.

32. FORCE MAJEURE

- Except with respect to defaults of any subcontractor(s), Contractor shall not be liable for reasonable delays in the completion of work under this Agreement, if its failure to perform arises out of, and only of, fires, floods, epidemics, quarantine restrictions, other natural occurrences, strikes, freight embargoes or other force majeure events set forth in Paragraph 56 (Contractor Performance During Civil Unrest and Disaster), but in every such case the failure to perform must be totally beyond the control and without any fault or negligence of Contractor.
- 32.2 If the failure to perform is caused by the default of a subcontractor, and if such default arises out of causes beyond the control of both Contractor and subcontractor, and without any fault or negligence of either of them, Contractor shall not be liable for reasonable delays in the completion of the work, unless the goods and/or services to be furnished by the subcontractor was obtainable from other sources in sufficient time to permit Contractor to meet the required schedule. Contractor agrees to use all reasonable commercial efforts to obtain such goods or

services from other sources. As used in this Paragraph 32, the term "subcontractor" and "subcontractors" mean subcontractor(s) at any tier.

Notwithstanding anything herein to the contrary, County shall not be liable for any additional costs incurred by Contractor, or any subcontractor hereto arising out of or resulting from force majeure event.

33. <u>UNLAWFUL SOLICITATION</u>

Contractor shall inform all of its employees who provide services hereunder of the provisions of Article 9 of Chapter 4 of Division 3 (commencing with Section 6150) of California Business and Professions Code (i.e., State Bar Act provisions regarding unlawful solicitation as a runner or capper for attorneys) and shall take positive and affirmative steps in its performance hereunder to ensure that there is no violation of such provisions by its employees. Contractor shall utilize the attorney referral service of all those bar associations within Los Angeles County that have such a service.

34. RESOLICITATION OF BIDS AND PROPOSALS

- 34.1 Contractor acknowledges that, prior to the expiration or earlier termination of this Agreement, County, in its sole discretion, may exercise its right to invite bids or request proposals for the continued provision of the goods and services delivered or contemplated under this Agreement. County shall make the determination to resolicit bids or request proposals in accordance with applicable County policies.
- Contractor acknowledges that County, in its sole discretion, may enter into an agreement for the future provision of goods and services, based upon the bids or proposals received, with a provider or providers other than Contractor. Further, Contractor acknowledges that it obtains no greater right to be selected through any future invitation for bids or request for proposals by virtue of its present status as Contractor.

35. COMPLIANCE WITH APPLICABLE LAWS

- Contractor's activities hereunder shall comply with all applicable Federal, State, and local laws, rules, regulations, ordinances, guidelines and directives, and all provisions required thereby to be included in this Agreement are hereby incorporated herein by reference. Contractor shall have up to thirty (30) days to correct any noncompliance with County rules, regulations, ordinances, guidelines and directives following written notice from County including written copies of such applicable rules, regulations, ordinances, guidelines and/or directives.
- Subject to the provisions of Paragraph 14.1.2 (Limitation of Liability), Contractor shall indemnify, defend and hold harmless County, its officers, employees, and agents from and against any and all claims, demands, damages, liabilities, losses, costs and expenses, including, but not limited to, defense costs and legal, accounting and other expert, consulting or professional fees, arising from or related to any violation on the part of Contractor, its employees, agents or subcontractors of any such laws, rules, regulations, ordinances, guidelines or directives. Any legal defense pursuant to Contractor's indemnification

* (조 기사) obligations under this Paragraph 35.2 shall be conducted by Contractor and performed by counsel selected by Contractor and approved by in writing by County, which approval shall not be unreasonably withheld. Notwithstanding the preceding sentence, County shall have the right to participate in any such defense at its sole cost and expense, except that in the event Contractor fails to provide County with a full and adequate defense, as required by law or this Agreement, County shall be entitled to reimbursement for all such costs and expenses.

36. FAIR LABOR STANDARDS

Contractor shall comply with all applicable provisions of the Federal Fair Labor Standards Act, and shall indemnify, defend and hold harmless County, its officers, employees and agents from any and all liability, including, but not limited to, wages, overtime pay, liquidated damages, penalties, court costs and attorneys' fees arising under, any wage and hour law, including, but not limited to, the Federal Fair Labor Standards Act, for work performed by Contractor's employees for which County may be found jointly or solely liable, subject to the provisions of Paragraph 14.1.2 (Limitation of Liability).

37. <u>NONDISCRIMINATION AND COMPLIANCE WITH CIVIL RIGHTS LAWS</u>

- Contractor certifies and agrees that all persons employed by it, its affiliates, subsidiaries and holding companies will be treated equally without regard to or because of race, color, religion, ancestry, national origin, sex, age, physical or mental handicap, marital status, sexual orientation or political affiliation, in compliance with all applicable Federal and State anti-discrimination laws and regulations.
- Contractor shall, pursuant to Los Angeles County Code Section 4.32, certify to and comply with the provisions of the Contractor's EEO Certification (Exhibit F).
- Contractor shall take affirmative action to ensure that applicants and employees are treated equally during employment, without regard to race, color, religion, ancestry, national origin, sex, age, physical or mental handicap, marital status, sexual orientation or political affiliation, in compliance with all applicable Federal and State anti-discrimination laws and regulations. Such action shall include, but is not limited to: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- Contractor certifies and agrees that it will deal with its subcontractors, bidders or vendors without regard to or because of race, color, religion, ancestry, national origin, sex, age, physical or mental handicap, marital status, sexual orientation or political affiliation, except to the extent necessary to comply with applicable Federal and State anti-discrimination laws and regulations.
- Contractor certifies that it, its affiliates, subsidiaries and holding companies are in compliance with all Federal, State, and local laws, including, but not limited to:
 - 1. Title VII, Civil Rights Act of 1964;
 - 2. Section 504, Rehabilitation Act of 1973;
 - 3. Age Discrimination Act of 1975;

- 4. Title IX, Education Amendments of 1973, as applicable; and
- 5. Title 43, Part 17, Code of Federal Regulations, Subparts A & B,

and that no person shall, on the grounds of race, creed, color, national origin, political affiliation, marital status, sex, age, or handicap, be subject to discrimination as to any privileges or uses gained under this Agreement or under any project, program or activity supported by this Agreement.

- Contractor shall allow County representatives access to Contractor's employment records during regular business hours to verify compliance with the provisions of this Paragraph 37 when so requested by County.
- 37.7 If County finds that any of the provisions of this Paragraph 37 have been violated, such violation shall, at the election of County, constitute a material breach of this Agreement upon which County may terminate or suspend this Agreement. While County reserves the right to determine independently that the anti-discrimination provisions of this Agreement have been violated, in addition, a determination by the California Fair Employment Practices Commission or the Federal Equal Employment Opportunity Commission that Contractor has violated State or Federal anti-discrimination laws or regulations shall constitute a finding by County that Contractor has violated the anti-discrimination provisions of this Agreement.
- The parties agree that in the event Contractor is found to have violated the antidiscrimination provisions of this Agreement, and that such discrimination was directly associated with the performance of services provided under this Agreement, County may require, pursuant to Los Angeles County Code Section 4.32.010 (E), that Contractor pay the sum of Five Hundred Dollars (\$500) for each such violation, in lieu of terminating or suspending this Agreement, as liquidated damages are extremely difficult to ascertain or calculate precisely. In the alternative, County may elect to terminate this Agreement pursuant to Paragraph 21 (Termination for Default).

38. NONDISCRIMINATION IN SERVICES

- Contractor shall not discriminate in the provision of services hereunder because of race, color, religion, national origin, ancestry, sex, age, or physical or mental handicap, in accordance with all applicable requirements of Federal and State law. For the purpose of this Paragraph 38, discrimination in the provision of services may include, but is not limited to, the following: denying any person any service or benefit or the availability of the facility, providing any service or benefit to any person which is not equivalent or is not provided in an equivalent manner or at an equivalent time to that provided to others; subjecting any person to segregation or separate treatment in any manner related to the receipt of any service; restricting any person in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service or benefit; and treating any person differently from others in determining admission, enrollment quota, eligibility, membership, or any other requirements or conditions which persons must meet in order to be provided any service or benefit.
- Contractor shall ensure that recipients of services under this Agreement are provided services without regard to race, color, religion, national origin, ancestry, sex, age, or condition of

physical or mental handicap.

39. INTENTIONALLY OMITTED

40. <u>RESTRICTIONS ON LOBBYING</u>

40.1 Federal Funds Projects

If any Federal funds are to be used to pay portion for any of Contractor's work under this Agreement, Contractor shall fully comply with all certification and disclosure requirements prescribed by Section 319 of Public law 101-121 (31 United States Code Section 1352) and any implementing regulations, and shall ensure that each of its subcontractors receiving funds provided under this Agreement also fully complies with all such certification and disclosure requirements.

40.2 <u>County Projects</u>

Contractor, and each County lobbyist or County lobbying firm, as defined in Los Angeles County Code Section 2.160.010, retained by Contractor, shall fully comply with County's Lobbyist Ordinance, Los Angeles County Code Chapter 2.160. Failure on the part of Contractor or any County lobbyist or County lobbying firm retained by Contractor to fully comply with County Lobbyist Ordinance shall constitute a material breach of this Agreement, upon which County may immediately terminate or suspend this Agreement.

41. EMPLOYMENT ELIGIBILITY VERIFICATION

- Contractor warrants that it fully complies with all Federal and State statutes and regulations regarding employment of aliens and others and that all its employees performing services under this Agreement meet the citizenship or alien status requirements contained in Federal and State statutes and regulations, including but not limited to, the Immigration Reform and Control Act of 1986 (P.L. 99-603).
- Contractor shall obtain from all employees performing under this Agreement, prior to commencing any work hereunder, all verifications and other documentation of employment eligibility status required by Federal statutes and regulations as they currently exist and as they may be hereafter amended. Contractor shall retain such documentation for the period prescribed by law.
- Subject to the provisions of Paragraph 14.1.2 (Limitation of Liability), Contractor shall indemnify, defend, and hold harmless County, its officers, employees and agents from and against any and all claims, demands, damages, liabilities, losses, costs, and expenses, including, but not limited to, defense costs and legal, accounting and other expert, consulting or professional fees, arising out of or in connection with any employer sanctions and any other liability which may be assessed against Contractor or County in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under this Agreement. Any legal defense pursuant to Contractor's indemnification obligations under this Paragraph 41 shall be conducted by Contractor and performed by counsel selected by Contractor and approved by

County in writing, which approval shall not be unreasonably withheld. Notwithstanding the foregoing, County shall have the right to participate in any such defense, at its sole cost and expense, except that in the event Contractor fails to provide County with a full and adequate defense, as required by law or this Agreement, County shall be entitled to reimbursement for all such costs and expenses.

In the event Contractor fails to comply with the provisions of this Paragraph 41, County may, in its sole discretion, terminate this Agreement for default.

42. HIRING OF EMPLOYEES

42.1 <u>Consideration of Hiring County Employees Targeted for Layoff / On Re-Employment List</u>

Should Contractor require additional or replacement personnel after the Effective Date to perform the work set forth herein, Contractor shall give first consideration for such employment openings to qualified permanent County employees who are targeted for layoff and qualified former County employees who are on a re-employment list during the term of this Agreement.

42.2 <u>Consideration of GAIN/GROW Program Participants for Employment</u>

Should Contractor require additional or replacement personnel after the Effective Date, Contractor shall give consideration for any such employment openings to participants in the County's Department of Public Social Services' Greater Avenues for Independence (GAIN) Program or General Relief Opportunity for Work (GROW) Program who meet Contractor's minimum qualifications for the open position. For this purpose, consideration shall mean that Contractor will interview qualified candidates. County will refer GAIN/GROW participants by job category to Contractor.

In the event that both laid-off County employees and GAIN/GROW participants are available for hiring, County employees shall be given first priority.

43. <u>CONTRACTOR'S WARRANTY OF ADHERENCE TO COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM</u>

- Contractor acknowledges that County has established a goal of ensuring that all individuals who benefit financially from County through County agreements are in compliance with their court-ordered child, family and spousal support obligations in order to mitigate the economic burden otherwise imposed upon County and its taxpayers.
- As required by County's Child Support Compliance Program (County Code Chapter 2.200) and without limiting Contractor's duty under this Agreement to comply with all applicable provisions of State and Federal law, Contractor warrants that it is now in compliance and shall during the term of this Agreement maintain compliance with employment and wage reporting requirements as required by the Federal Social Security Act (42 USC Section 653(a)) and California Unemployment Insurance Code Section 1088.5, and shall, implement all lawfully served Wage and Earnings Withholding Orders or County's Child Support Services Department Notices of Wage and Earnings Assignment for Child or Spousal

Support, pursuant to Code of Civil Procedure Section 706.031 and Family Code Section 5246(b).

44. <u>TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN COMPLIANCE WITH COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM</u>

Failure of Contractor to maintain compliance with the requirements set forth in Paragraph 43 (Contractor's Warranty of Adherence to County's Child Support Compliance Program) shall constitute a default by Contractor under this Agreement. Without limiting the rights and remedies available to County under any other provision of this Agreement, failure to cure such default within ninety (90) days of notice by County's Child Support Services Department shall be grounds upon which the Auditor-Controller or County's Board of Supervisors may terminate this Agreement pursuant to Paragraph 21 (Termination for Default) and pursue debarment of Contractor pursuant to Paragraph 47 (Contractor Responsibility and Debarment).

45. CONTRACTOR'S OBLIGATIONS UNDER HIPAA

Country. Upon execution of this Agreement, but no later than commencing performance of work hereunder, Contractor shall execute the Business Associate Agreement attached as Exhibit I (Business Associate Protected Health Information Disclosure Agreement). Should County amend the Business Associate Agreement as is necessary to comply with the requirements of the Privacy and/or Security Regulations (as such term is defined in the Business Associate Agreement), County shall execute a Change Notice in accordance with Paragraph 4 (Change Notices and Amendments), and Contractor shall execute the amended Business Associate Agreement immediately thereafter.

46. NOTICE TO EMPLOYEES REGARDING THE FEDERAL EARNED INCOME CREDIT

Contractor shall notify its employees, and shall require each subcontractor to notify its employees, that they may be eligible for the Federal Earned Income Credit under the Federal income tax laws. Such notice shall be provided in accordance with the requirements set forth in Internal Revenue Service Notice 1015.

47. CONTRACTOR RESPONSIBILITY AND DEBARMENT

- 47.1 A responsible contractor is a contractor who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity and experience to satisfactorily perform the contract. It is County's policy to conduct business only with responsible contractors.
- Contractor is hereby notified that, in accordance with Chapter 2.202 of the Los Angeles Code, if County acquires information concerning the performance of Contractor on this Agreement or other contracts which indicates that Contractor is not responsible, County may, in addition to other remedies provided in this Agreement, debar Contractor from bidding or proposing on, or being awarded, and/or performing work on, County agreements for a specified period of time, which generally will not exceed five (5) years, although may exceed five (5) years or be permanent if warranted by the circumstances, and terminate any or all

existing agreements Contractor may have with County.

- County may debar Contractor if County's Board of Supervisors finds, in its discretion, that Contractor has done any of the following: (i) violated any term of a contract with County or a nonprofit corporation created by County; (ii) committed any act or omission which negatively reflects on Contractor's quality, fitness or capacity to perform a contract with County, any other public entity or a nonprofit corporation created by County, or engaged in a pattern or practice which negatively reflects on same; (iii) committed an act or offense which indicates a lack of business integrity or business honesty; or (iv) made or submitted a false claim against County or any other public entity.
- 47.4 If there is evidence that Contractor may be subject to debarment, County's Project Director, or his/her designee, will notify Contractor in writing of the evidence which is the basis for the proposed debarment and will advise Contractor of the scheduled date for a debarment hearing before County's Contractor Hearing Board.
- 47.5 The Contractor Hearing Board will conduct a hearing where evidence on the proposed debarment is presented. Contractor and/or Contractor's representative shall be given an opportunity to submit evidence at that hearing. After the hearing, the Contractor Hearing Board will prepare a tentative proposed decision, which shall contain a recommendation regarding whether Contractor should be debarred, and, if so, the appropriate length of time of the debarment. Contractor, County's Project Director, or his/her designee, and County's departments shall be provided with an opportunity to object to the tentative proposed decision prior to its presentation to County's Board of Supervisors.
- After consideration of any objections, or if no objections are submitted, a record of the hearing, the proposed decision and any other recommendation of the Contractor Hearing Board shall be presented to County's Board of Supervisors. The Board of Supervisors shall have the right to modify, deny or adopt the proposed decision and recommendation of the Contractor Hearing Board.
- 47.7 If Contractor has been debarred for a period longer than five (5) years, then Contractor may, after the debarment has been in effect for at least five (5) years, submit a written request for review of the debarment determination to reduce the period of debarment or terminate the debarment. County may, in its discretion, reduce the period of debarment or terminate the debarment if it finds that such Contractor has adequately demonstrated one or more of the following: (1) elimination of the grounds for which the debarment was imposed; (2) a bona fide change in ownership or management; (3) material evidence discovered after debarment was imposed; or (4) any other reason that is in the best interests of County.
- The Contractor Hearing Board will consider a request for review of a debarment determination only where (1) the requesting contractor has been debarred for a period longer than five (5) years, (2) the debarment has been in effect for at least five (5) years and (3) the request is in writing, states one or more of the grounds for reduction of the debarment period or termination of the debarment, and includes supporting documentation. Upon receiving an appropriate request, the Contractor Hearing Board will provide notice of the hearing on the request. At the hearing, the Contractor Hearing Board shall conduct a hearing where evidence on the proposed reduction of debarment period or termination of debarment is

presented. This hearing shall be conducted and the request for review decided by the Contractor Hearing Board pursuant to the same procedures as for a debarment hearing.

- The Contractor Hearing Board's proposed decision shall contain a recommendation on the request to reduce the period of debarment or terminate the debarment. The Contractor Hearing Board shall present its proposed decision and recommendation to County's Board of Supervisors. County's Board of Supervisors shall have the right to modify, deny, or adopt the proposed decision and recommendation of the Contractor Hearing Board.
- 47.10 The terms and procedures of this Paragraph 47 shall also apply to subcontractors, consultants and partners of Contractor performing work under this Agreement.

48. <u>COUNTY AUDIT SETTLEMENTS</u>

If, at any time during or after the term of this Agreement or within five (5) years after the expiration of termination thereof, representatives of County conduct an audit of Contractor regarding the work performed under this Agreement, and if such audit finds that County's dollar liability for such work is less than payments made by County to Contractor, then the difference, together with County's reasonable costs of audit, shall, at County's sole discretion, either be: (i) repaid by Contractor to County by cash payment upon demand; or (ii) at County's sole option, deducted from any amounts due to Contractor from County, whether under this Agreement or otherwise. If such audit finds that County's dollar liability for such work is more than payments made by County to Contractor, then the difference shall be repaid by County to Contractor, provided that in no event shall County's payments to Contractor exceed the Contract Sum identified in Paragraph 8 (Contract Sum).

49. FEDERAL ACCESS TO RECORDS

If, and to the extent that, Section 1861(v)(1)(i) of the Social Security Act (42 United States Code Section 1395x(v)(1)(i) is applicable, Contractor agrees that for a period of five (5) years following the furnishing of services under this Agreement, Contractor shall maintain and make available, upon written request, to the Secretary of the United States Department of Health and Human Services or the Comptroller General of the United States or to any of their authorized representatives, the contracts, books, documents and records of Contractor which are necessary to verify the nature and extent of the costs of services provided hereunder. Furthermore, if Contractor carries out any of the services provided hereunder through any subcontract with a value or cost of Ten Thousand Dollars (\$10,000) or more over a twelve month period with a related organization (as that term is defined under Federal law), Contractor agrees that each such subcontract shall provide for such access to the subcontract, books, documents, and records of the subcontractor.

50. <u>LICENSES, PERMITS, REGISTRATIONS, ACCREDITATIONS AND CERTIFICATES</u>

Contractor shall obtain and maintain in effect during the term of this Agreement all licenses, permits, registrations, accreditations and certificates required by all Federal, State, and local laws, ordinances, rules, regulations, guidelines and directives, which are applicable to Contractor's services under this Agreement. Contractor shall further ensure that all of its officers, employees, agents and subcontractors who perform services hereunder, shall obtain

and maintain in effect during the term of this Agreement all licenses, permits, registrations, accreditations and certificates which are applicable to their performance hereunder. A copy of each such license, permit, registration, accreditation and certificate required by all applicable Federal, State, and local laws, ordinances, rules, regulations, guidelines and directives shall be provided, in duplicate, to County's Project Manager at the address set forth in Section I (County's Key Personnel of Exhibit G (Administration of Agreement).

51. NEW TECHNOLOGY

Contractor and County acknowledge the probability that the technology of the software and hardware which comprise the System will change and improve during the term of this Agreement. County desires the flexibility to incorporate into the System any new technologies as they may become available. Accordingly, Contractor's Project Manager shall, promptly upon discovery and on a continuing basis, apprise County's Project Manager of all new technologies, methodologies and techniques which Contractor considers to be applicable to the System. Specifically, upon County's request, Contractor shall provide, in writing, a description of such new technologies, methodologies and techniques, indicating the advantages and disadvantages of incorporating same into the System, and provide an estimate of the impact such incorporation will have on the performance, scheduling and price of the System. County, at its sole discretion, may request that Contractor review these new technologies, methodologies and techniques and, if Contractor determines that these new technologies, methodologies and techniques are technologically feasible for Contractor to make and County agrees with the proposed fees, if any, to make these changes, then this Agreement shall be amended to incorporate the new technologies, methodologies and techniques into the System pursuant to the provisions of Paragraph 4 (Change Notices and Amendments).

52. NO THIRD PARTY BENEFICIARIES

Notwithstanding any other provision of this Agreement, Contractor and County do not in any way intend that any person or entity shall acquire any rights as a third party beneficiary of this Agreement, except that this provision shall not be construed to diminish Contractor's indemnification obligations hereunder.

53. GOVERNING LAW, JURISDICTION AND VENUE

This Agreement shall be governed by, and construed in accordance with, the laws of the State of California applicable to agreements made and to be performed within the State. Contractor agrees and consents to the exclusive jurisdiction of the courts of the State of California for all purposes regarding this Agreement and further agrees and consents that venue of any action brought hereunder shall be exclusively in the County of Los Angeles, California. As with respect to claims that are subject to exclusive Federal subject matter jurisdiction, Contractor agrees and consents to the exclusive jurisdiction of the Federal District Court of the Central District of California.

54. DISPUTE RESOLUTION PROCEDURE

54.1 Contractor and County agree to act immediately to mutually resolve any disputes which may

arise with respect to this Agreement. All such disputes shall be subject to the provisions of this Paragraph 54 (such provisions shall be collectively referred to as the "Dispute Resolution Procedure"). Time is of the essence in the resolution of disputes.

Contractor and County agree that, the existence and details of a dispute notwithstanding, both parties shall continue without delay their performance hereunder, except for any performance which County determines should be delayed as a result of such dispute.

Subject to the provisions of Paragraph 9.4 (Payments), if Contractor fails to continue without delay its performance hereunder which County, acting reasonably, determines should not be delayed as a result of such dispute, then any additional costs which may be incurred by Contractor or County as a result of Contractor's failure to continue to so perform shall be borne by Contractor, and Contractor shall make no claim whatsoever against County for such costs. County may deduct all such additional costs from any amounts due to Contractor from County or seek reimbursement of such costs from Contractor.

If County fails to continue without delay to perform its responsibilities under this Agreement which County determines should not be delayed as a result of such dispute, then any additional costs incurred by Contractor or County as a result of County's failure to continue to so perform shall be borne by County, and County shall make no claim whatsoever against Contractor for such costs. County shall reimburse Contractor for all such additional Contractor costs, subject to the approval of such costs by County.

- In the event of any dispute between the parties with respect to this Agreement, Contractor and County shall submit the matter to their respective Project Managers for the purpose of endeavoring to resolve such dispute.
- In the event that the Project Managers are unable to resolve the dispute within a reasonable time not to exceed ten (10) days from the date of submission of the dispute, then the matter shall be immediately submitted to the parties' respective Project Directors for further consideration and discussion to attempt to resolve the dispute.
- In the event that the Project Directors are unable to resolve the dispute within a reasonable time not to exceed ten (10) days from the date of submission of the dispute, then the matter shall be immediately submitted to Contractor's President and the Director. These persons shall have ten (10) days to attempt to resolve the dispute.
- In the event that at these levels, there is not a resolution of the dispute acceptable to both parties, then each party may assert its other rights and remedies provided under this Agreement and/or its rights and remedies as provided by law.
- All disputes utilizing this dispute resolution procedure shall be documented in writing by each party and shall state the specifics of each alleged dispute and all actions taken. The parties shall act in good faith to resolve all disputes. At all three (3) levels described in this Paragraph 54, the efforts to resolve a dispute shall be undertaken by conference between the parties' respective representatives, either orally, by face-to-face meeting or by telephone, or in writing by exchange of correspondence.

Notwithstanding any other provision of this Agreement, County's right to terminate this Agreement pursuant to Paragraph 23 (Termination for Insolvency), Paragraph 21 (Termination for Default), Paragraph 24 (Termination for Improper Consideration), Paragraph 22 (Termination for Convenience), or any other termination provision hereunder, and the parties' right to seek injunctive relief to enforce the provisions of Paragraphs 15 (Proprietary Considerations) and 20 (Confidentiality), shall not be subject to this Dispute Resolution Procedure. The preceding sentence is intended only as a clarification of County's rights, and shall not be deemed to impair any claims that Contractor may have against County or Contractor's rights to assert such claims after any such termination or such injunctive relief has been obtained.

55. WAIVER

No breach by Contractor of any provision of this Agreement can be waived unless done in writing. No waiver by County of any breach of any provision of this Agreement shall constitute a waiver of any other breach or of such provision. Failure of County to enforce at any time, or from time to time, any provision of this Agreement shall not be construed as a waiver thereof. The rights and remedies set forth in this Agreement shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

56. CONTRACTOR PERFORMANCE DURING CIVIL UNREST AND DISASTER

Contractor recognizes that County provides services essential to the residents of the communities it serves, and that these services are of particular importance at the time of a riot, insurrection, civil unrest, natural disaster or similar event. Notwithstanding any other provision of this Agreement, full performance by Contractor during any riot, insurrection, civil unrest, terrorist threat or act, natural disaster or similar event is not excused if such performance remains physically possible without related danger to Contractor's or subcontractors' employees and suppliers. During any such event in which the health or safety of any of Contractor's staff members would be endangered by performing their services on-site, such staff members may perform any or all of their services remotely to the extent it is feasible to do so. Failure to comply with this requirement shall be considered a material breach of this Agreement by Contractor, for which County may immediately terminate this Agreement.

57. DAMAGE TO COUNTY FACILITIES, BUILDINGS OR GROUNDS

- Contractor shall repair, or cause to be repaired, at its own cost, any and all damage to County facilities, buildings, or grounds caused by Contractor or employees or agents of Contractor. Such repairs shall be made promptly after Contractor has become aware of such damage, but in no event later than thirty (30) days after the occurrence.
- If Contractor fails to make timely repairs, County may make any necessary repairs. All necessary costs incurred by County, as determined by County, for such repairs shall be repaid by Contractor by cash payment upon demand or, without limitation of all County's other rights and remedies provided by law or under this Agreement, County may deduct such costs from any amounts due Contractor from County under this Agreement.

58. <u>AUTHORIZATION WARRANTY</u>

Each party represents and warrants that the person executing this Agreement or any Amendment thereto pursuant to Paragraph 4 (Change Notices and Amendments) for that party is an authorized agent of such party who has actual authority to bind the party to each and every term, condition and obligation of this Agreement, and that all requirements of each party have been fulfilled to provide such actual authority.

59. FORMS AND PROCEDURES

All forms and procedures used by Contractor in implementation of the provisions of this Agreement shall be subject to review and approval by County prior to use by Contractor. Such forms and procedures shall not conflict in any way with this Agreement and shall incorporate the terms and conditions of this Agreement. In the event of any conflict between such forms and procedures and this Agreement, the provisions of this Agreement shall prevail.

60. <u>MINIMUM AGE, LANGUAGE SKILLS AND LEGAL STATUS OF CONTRACTOR PERSONNEL</u>

Contractor cannot assign employees under the age of eighteen (18) to perform work under this Agreement. All of Contractor's employees working at County facilities must be able to communicate in English. Contractor's employees must be United States citizens or legally present and permitted to work in the United States.

61. <u>VALIDITY AND SEVERABILITY</u>

61.1 <u>Validity</u>

The invalidity, unenforceability or illegality of any provision of this Agreement shall not render the other provisions hereof invalid, unenforceable or illegal, unless the essential purposes of this Agreement shall be materially impaired thereby.

61.2 Severability

In the event that any provision herein contained is held to be invalid, void or illegal by any court of competent jurisdiction, the same shall be deemed severable from the remainder of this Agreement, if practicable, and shall in no way affect, impair or invalidate any other provision contained herein. If any such provision shall be deemed invalid in its scope or breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law. If any provision of this Agreement is adjudged void or invalid for any reason whatsoever, but would be valid if part of the wording thereof were deleted or changed, then such provision shall apply with such modifications as may be necessary to make it valid and effective.

62. NOTICES

- 62.1 All notices or demands required or permitted to be given or made under this Agreement. unless otherwise specified, shall be in writing and shall be addressed to the parties at the following addresses and delivered: (i) by hand with signed receipt; (ii) by first-class registered or certified mail, postage prepaid; or (iii) by facsimile or electronic mail transmission followed within twenty-four (24) hours by a confirmation copy mailed by firstclass registered or certified mail, postage prepaid. Notices shall be deemed given at the time of signed receipt in the case of hand delivery, three (3) days after deposit in the United States mail as set forth above, or on the date of facsimile or electronic mail transmission if followed by timely confirmation mailing. Addresses may be changed by either party by giving ten (10) days prior written notice thereof to the other party.
- 62.2 Director shall have the authority to issue all notices or demands which are required or permitted to be issued by County under this Agreement.
- 62.3 To County, notices shall be sent to the attention of County's Project Manager, County's Project Director and to each applicable County's Facility Project Manager at the respective locations set forth in Exhibit G (Administration of Agreement).

62.4	To	To Contractor						
	1.	With the state of						
		Attention: _ Facsimile:						
		Email:		_				
	2.	***************************************						
		***************************************	·					
		Attention:		_				
		Facsimile: _						
		Email:						

- Each party may change the names of the people designated to receive notices pursuant to this 62.5 Paragraph 62 by giving written notice of the change to the other party, subject to County's right of approval in accordance with Paragraph 3.3 (Approval of Contractor's Staff).
- 63. NO PAYMENT FOR SERVICES PROVIDED FOLLOWING EXPIRATION/ **TERMINATION OF AGREEMENT**

Contractor shall have no claim against County for payment of any money or reimbursement, of any kind whatsoever, for any services provided by Contractor after the expiration of other termination of this Agreement. Should Contractor receive any such payment, it shall immediately notify County and shall immediately repay all such funds to County. Payment by County for services rendered after expiration/termination of this Agreement shall not constitute a waiver of County's right to recover such payment from Contractor. The provisions of this Paragraph 63 shall survive the expiration or other termination of this

Agreement.

64. <u>ARM'S LENGTH NEGOTIATIONS</u>

This Agreement is the product of arm's length negotiations between Contractor and County. Consequently, each party has had the opportunity to receive advice from independent counsel of its own choosing. This Agreement is to be interpreted fairly as between the parties and not strictly construed as against either party.

65. NON-EXCLUSIVITY

Nothing herein is intended nor shall be construed as creating any exclusive arrangement with Contractor. This Agreement shall not restrict County from acquiring similar, equal or like goods and/or services from other entities or sources.

66. <u>ACCESS TO COUNTY FACILITIES</u>

Contractor, its employees and agents, will be granted access to County facilities, subject to Contractor's prior notification to County's Project Director, for the purpose of executing Contractor's obligations hereunder. Access to County facilities shall be restricted to normal business hours, 8:00 a.m. until 5:00 p.m., Pacific Time, Monday through Friday, County observed holidays excepted. Access to County facilities outside of normal business hours must be approved in writing in advance by County's Project Director, which approval shall not be unreasonably withheld. Contractor shall have no tenancy, or any other property or other rights, in County facilities. While present at County facilities, Contractor's personnel shall be accompanied by County personnel at all times, unless this requirement is waived in writing prior to such event by County's Project Director.

67. <u>COUNTY FACILITY OFFICE SPACE</u>

In order for Contractor to perform services hereunder and only for the performance of such services, County may elect, subject to County's standard administrative and security requirements, to provide Contractor with office space and equipment, as determined at the discretion of the County's Project Director, at County facilities, on a non-exclusive use basis. County will also provide Contractor with reasonable telephone service in such office space for use only for purposes of this Agreement. County disclaims any and all responsibility for the loss, theft or damage of any property or material left at such County office space by Contractor.

68. PHYSICAL ALTERATIONS

Contractor shall not in any way physically alter or improve any County facility without the prior written approval of Director, County's Project Director, County's Project Manager and the Director of County's Internal Services Department, in their discretion.

69. CONTRACTOR'S OFFICES

(Cont	tract	or'	S	business	offices	are	locat	ed	at	

Contractor shall notify in writing the person designated in Section I (County's Key Personnel) of Exhibit G (Administration of Agreement) as County's Project Manager at the address specified therein of any change in its business address at least ten (10) Business Days prior to the effective date thereof.

70. <u>DELIVERY AND RISK OF LOSS</u>

Contractor shall bear the full risk of loss due to total or partial destruction of the System Software loaded on CDs or other computer media and/or Peripheral Hardware until such items are delivered to and accepted in writing by County.

71. STAFF PERFORMANCE WHILE UNDER THE INFLUENCE

Contractor shall use reasonable efforts to ensure that no employee of Contractor shall perform services hereunder while under the influence of any alcoholic beverage, medication, narcotic or other substance, which might impair his/her physical or mental performance.

72. TIME IS OF THE ESSENCE

Time is of the essence of this Agreement.

73. ASSIGNMENT BY COUNTY

This Agreement may be assigned in whole or in part by County, without the further consent of Contractor, to a party which is not a competitor of Contractor and which agrees in writing to perform County's obligations under this Agreement.

74. CAPTIONS AND PARAGRAPH HEADINGS

Captions and paragraph headings used in this Agreement are for convenience only and are not a part of this Agreement and shall not be used in construing this Agreement.

75. NOTICE OF DELAYS

Except as otherwise provided herein, when either party has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this Agreement, that party shall promptly, but no later than within three (3) Business Days, give to the other party notice thereof, with all relevant information with respect to such actual or potential delay, by telephoning the appropriate personnel of that party, followed by a written notification within two (2) Business Days thereafter.

76. COUNTY POLICY REGARDING RECYCLED PAPER

Consistent with the Board of Supervisors' policy to reduce the amount of solid waste deposited at County landfills, Contractor agrees to use recycled-content paper to the maximum extent possible for the purpose of this Agreement.

77. COMPLIANCE WITH COUNTY'S JURY SERVICE PROGRAM

77.1 <u>Jury Service Program</u>

This Agreement is subject to the provisions of County's ordinance entitled Contractor Employee Jury Service Program (hereinafter "Jury Service Program" or "Program") as codified in Sections 2.203.010 through 2.203.090 of the Los Angeles County Code (hereinafter "County Code").

77.2 Written Employee Jury Service Policy

- Unless Contractor has demonstrated to County's satisfaction either that Contractor is not a "Contractor" as defined under the Jury Service Program (Section 2.203.020 of the County Code) or that Contractor qualifies for an exception to the Jury Service Program (Section 2.203.070 of the County Code), Contractor shall have and adhere to a written policy that provides that its Employees (as defined in Paragraph 77.2.2 below) shall receive from Contractor, on an annual basis, no less than five (5) days of regular pay for actual jury service. The policy may provide that Employees deposit any fees received for such jury service with Contractor or that Contractor deduct from the Employee's regular pay the fees received for jury service.
- For purposes of this Paragraph 77, "Contractor" means a person, partnership, corporation or other entity which has an agreement with County or a subcontract with Contractor and has received or will receive an aggregate sum of \$50,000 or more in any 12-month period under one or more County agreements or subcontracts. "Employee" means any California resident who is a full time employee of Contractor. "Full time" means forty (40) hours or more worked per week, or a lesser number of hours if: 1) the lesser number is a recognized industry standard as determined by County, or 2) Contractor has a long-standing practice that defines the lesser number of hours as full-time. Full-time employees providing short-term, temporary services of ninety (90) days or less within a 12-month period are not considered full-time for purposes of the Jury Service Program. If Contractor uses any subcontractor to perform services for County under this Agreement, the subcontractor shall also be subject to the provisions of this Paragraph 77. The provisions of this Paragraph 77 shall be inserted into any such subcontract and a copy of the Jury Service Program shall be attached to the agreement.
- If Contractor is not required to comply with the Jury Service Program when the Agreement commences, Contractor shall have a continuing obligation to review the applicability of its "exception status" from the Jury Service Program, and Contractor shall immediately notify County if Contractor at any time either comes within the Jury Service Program's definition of "Contractor" or if Contractor no longer qualifies for an exception to the Program. In either event, Contractor shall immediately implement a written policy consistent with the Jury Service Program. County may also require, at any time during this Agreement and at its sole discretion, that Contractor demonstrate to County's satisfaction that Contractor either continues to remain outside of the Jury Service Program's definition of "Contractor" and/or that Contractor continues to qualify for an exception to the Program.
- 77.2.4 Contractor's violation of this Paragraph 77 of this Agreement may constitute a material breach of the Agreement. In the event of such material breach, County may, in its sole

discretion, terminate this Agreement with Contractor and/or bar Contractor from the award of future County agreements for a period of time consistent with the seriousness of the breach.

78. SURVIVAL

The provisions in the following Paragraphs shall survive the expiration or termination of this Agreement for any reason:

- 5.3. Unapproved Work
- 9.5 County's Right to Withhold Payments
- 10. Warranties and Correction of Deficiencies
- 11. Ownership and License
- 14. Indemnification, Insurance and Performance Security
- 15. Proprietary Considerations
- 16. Intellectual Property Indemnification
- 19. Disclosure of Information
- 20. Confidentiality
- 21. Termination for Default
- 22. Termination for Convenience
- 23. Termination for Insolvency
- 24. Termination for Improper Consideration
- 25. Termination for Gratuities
- 26. Records and Audits
- 35. Compliance with Applicable Laws
- 36. Fair Labor Standards
- 41. Employment Eligibility Verification
- 42. Hiring of Employees
- 45. Contractor's Obligations Under HIPAA

- 48. County Audit Settlements
- 49. Federal Access to Records
- 52. No Third Party Beneficiaries
- 53. Governing Law, Jurisdiction and Venue
- 61. Validity and Severability
- 78. Survival

OPERATING ROOM SCHEDULING OFFICE SYSTEM (ORSOS)

IN WITNESS WHEREOF, the Board of Supervisors of the County of Los Angeles has caused this Agreement to be subscribed by its Director of Health Services, and Contractor has caused this Agreement subscribed in its behalf by its duly authorized officers, the day, month, and year first above written.

	COUNTY OF LOS ANGELES		
	Bruce A. Chernof, M.D. Director and Chief Medical Office		
	CONTRACTOR		
	BySignature		
	Print Name		
	Title		
	(AFFIX CORPORATE SEAL HERE)		
APPROVED AS TO FORM:			
RAYMOND G. FORTNER, JR. County Counsel			
Ву			
Victoria Mansourian Deputy County Counsel			
APPROVED AS TO CONTRACT ADMINISTRATION:			
DEPARTMENT OF HEALTH SERVICES			
ByCara O'Neill, Chief Contracts and Grants			

COUNTY OF LOS ANGELES DEPARTMENT OF HEALTH SERVICES OPERATING ROOM OFFICE SCHEDULING SYSTEM (ORSOS)

ATTACHMENTS

Exh Exh	ibit A.1 - Statement of Work - Required Tasks ibit A.2 - Statement of Work - Optional Tasks
Atta	achment A.1 – Functional Requirements
I.	Technical Requirements
Π.	Business System Minimum Requirements
Atta	achment A.2 – System Software
	edule A.2.1 - Integration Server Terms and Conditions
Sche	edule A.2.2 - Business Objects Premium Terms and Conditions
I.	Baseline Application
	A. Core Application
	1. Base ORSOS Module
	2. Additional Modules
	B. Baseline Customizations
	1. Baseline Interfaces
	2. Baseline Modifications
	C. Application Third Party Software
	D. Data Conversions
II.	Third Party Software
Ш.	Third Party Products
Atta	ichment A.3 – System Environment
I.	Minimum System Environment Configuration
Π.	System Environment Specifications
	A. System Hardware
	B. Facility Network
Atta	schment A.4 – System TrainingA.4
I.	Introduction
Π.	Scope of Training
	A. Train-The-Trainer
	B. End-User Training
Atta	chment A.5 – Post-Implementation Work
I.	Application Modifications
	A. Customizations
	B. Additional Software
II.	Professional Services
	A. Consulting Servicees
	B. Additional Training
Atta	chment A.6 – County FacilitiesA.6
I.	Existing Facilities
II.	New Facilities

COUNTY OF LOS ANGELES DEPARTMENT OF HEALTH SERVICES OPERATING ROOM SCHEDULING OFFICE SYSTEM (ORSOS)

I. <u>INTRODUCTION</u>

This Exhibit A (Statement of Work) consists of two components: Exhibit A.1 (Statement of Work – Required Tasks) and Exhibit A.2 (Statement of Work – Optional Tasks) and, unless specified otherwise, includes Attachments A.1 through A.6 thereto. Capitalized terms used in this Exhibit A without definition have the meanings given to such terms in the body of the Agreement. All work under this Agreement shall be performed at the rates and fees set forth in Exhibit B (Schedule of Payments).

Contractor shall perform, complete and deliver all tasks, subtasks, deliverables, goods, services and other work, however denoted, as set forth in Exhibit A.1 (Statement of Work – Required Tasks) and, upon mutual agreement, all those set forth in (Statement of Work – Optional Tasks). Also defined herein are those Tasks and Subtasks that involve participation of both Contractor and County. Unless otherwise specified as an obligation of County, Contractor shall perform all Tasks and Subtasks and provide all Deliverables as defined herein.

The general scope of work to be performed under this Agreement, includes, but is not limited to, providing services and necessary products to design, develop, implement and maintain ORSOS at the County Facilities identified in Attachment A.6 (County Facilities). The Functional Requirements as of the Effective Date are set forth in Attachment A.1 (System Functional Requirements). The ORSOS will run in the System Environment approved and/or recommended by Contractor, including System Hardware and Facility Network. Contractor shall perform all Tasks and Subtasks associated with the Implementation Services and shall provide all associated Deliverables within the timeframes specified in the Project Schedule. Upon full migration to Production Use for the rest of the term of this Agreement, Contractor may provide Post-Implementation Work, consisting of Professional Services, including Consulting Services and Additional Training, and Application Modifications, including Additional Software and Customizations. Contractor shall, during the term of the Agreement, also be responsible for Maintenance and Support services, which will include provision of Maintenance Services (Updates, etc.) and Support Services (Help Desk, etc.).

The Implementation Services will be successfully completed upon delivery of a sufficiently user tested, fully functional application that meets the requirements and legal mandates of the County, while addressing all functions and requirements described or referenced within Exhibit A.1 (Statement of Work – Required Tasks), including Functional Requirements.

II. <u>INSTRUCTIONS</u>

Contractor shall utilize the following format for the Deliverables provided to County under this Agreement:

- (A) For status reports and other Deliverable documents electronically.
- (B) For Application Software, including, without limitation, Baseline Application, Application Modifications and Updates, electronically.
- (C) For Documentation, electronically or on CD/DVD-ROM in a file format acceptable to County.
- (D) For Implementation Project Plan and Design Document updates, electronically or on CD/DVD-ROM in a file format acceptable to County.
- (E) For Training materials, in a hard copy format and/or electronically, if available.
- (F) As soon as available, Contractor shall provide all other work delivered herein electronically in a file format importable to County software standards.

TASK 1 - PROJECT STRUCTURE

Subtask 1.1 – Analyze County Facility and Propose Implementation Solution

Contractor, with assistance and cooperation from County's Facility Project Manager, shall analyze and validate the business processes utilized by each County Facility by:

- (A) Reviewing the current processes, workflow and patient flow analysis reports of the particular County Facility;
- (B) Reviewing the Functional Requirements set forth in Attachment A.1 (System Functional Requirements) as they apply to the particular County Facility;
- (C) Reviewing all other pertinent material that County may acquire pursuant to this Agreement relevant to the particular County Facility;
- (D) Conducting clarification sessions with the County's staff and County designated key Users of the System to ensure a mutual understanding of the requirements;
- (E) Reviewing and analyzing each Existing Facility's request for Custom Reports;
- (F) Requesting additional information, as appropriate, to ensure a thorough understanding of the requirements.

As part of this Subtask 1.1, Contractor shall identify business process improvement opportunities for each County Facility. The requirements specified in this Exhibit A.1, including without limitation Attachment A.1 (System Functional Requirements) and the Contractor's specification for requirements, after Acceptance by County, will become the basis of an Implementation Project Plan developed under Subtask 1.3 (Develop Implementation Project Plan), which will include the tasks listed below:

- (A) Documenting the System General Requirements;
- (B) Documenting the Security Requirements;
- (C) Documenting the Technical Requirements;
- (D) Documenting the Business System Minimum Requirements;
- (E) Identifying and documenting all Input (electronic, input documents, forms);

- (F) Identifying and documenting all Output (electronic, forms, reports, statements);
- (G) Determining Processing, Storage and Response Time Requirements;
- (H) Specifying the work required for providing Custom Reports for each Existing Facility;
- (I) Other documentation for topics identified as necessary during the course of the investigation of business requirements.

Deliverable 1.1 – Proposed Implementation Solution

Upon completion of the business analysis described in Subtask 1.1 (Analyze County Facility and Propose Implementation Solution) above, Contractor shall submit to County a Proposed Implementation Solution, approved by County, for each County Facility, that contains Contractor's detailed specifications including a description of the ORSOS business, technical and functional requirements and recommendations for each County Facility, which shall include, but not be limited to, the following:

- (A) Narrative descriptions necessary to the understanding of documented processes;
- (B) Current and proposed process flow maps;
- (C) The System Environment requirements, including minimum System Environment specifications, warranted by Contractor to support the Contractor recommended solution detailed in the Implementation Project Plan for each County Facility.

Subtask 1.2 - Develop Design Document

Contractor shall design new business processes based upon the analysis completed in Subtask 1.1 (Analyze County Facility and Propose Implementation Solution) above. Contractor shall incorporate into the Design Document business process re-engineering changes that have been approved in writing by County's Project Director. Contractor shall document data and functional requirements associated with any new business processes. The business process details defined in the Design Document shall include, but not be limited to:

- (A) human resource considerations;
- (B) regulatory considerations.

OPERATING ROOM SCHEDULING OFFICE SYSTEM (ORSOS)

* == * == * ==

Deliverable 1.2 - Design Document

Contractor shall submit a Design Document for each County Facility that shall contain the high-level design of the System based on the approved Proposed Implementation Solution developed under Subtask 1.1 (Analyze County Facility and Propose Implementation Solution). The Design Document shall contain, without limitation, the following, in formats acceptable to County, to demonstrate Contractor's approach in configuring the System:

- (A) Definition of the automated functionality supporting each of the requirements identified in Subtask 1.1 (Analyze County Facility and Propose Implementation Solution);
- (B) Overall System Design;
- (C) Data Flow Diagrams;
- (D) Process Flow Diagrams;

Subtask 1.3 - Develop Implementation Project Plan

Contractor shall review with County's Project Manager, or his/her designee, the Design Document and the approved Proposed Implementation Solution for each County Facility and evaluate their feasibility. Based upon the review process, Contractor shall prepare an Implementation Project Plan and submit it for written approval to County's Project Director. Any subsequent significant modifications to the Implementation Project Plan shall require the prior written approval of County's Project Director. Any subsequent modifications to the Implementation Project Plan, which are not significant, shall require the prior written approval of County's Project Manager. The determination of whether a subsequent modification is significant and requires the prior written approval of County's Project Director or is not significant and requires only the prior written approval of County's Project Manager shall be made by County's Project Manager in his/her reasonable judgment.

Deliverable 1.3 – Implementation Project Plan

Contractor shall prepare an Implementation Project Plan for each County Facility in accordance with Subtask 1.3 (Develop Implementation Project Plan). The Implementation Project Plan shall provide the basis for new implementation of the Application Software at the New Facilities and Application Software upgrade and data conversion and migration at the Existing Facilities. Subsequent to County's Project Director's approval, the Implementation Project Plan may be modified only if such modification has been approved, in advance in writing by County's Project Director or County's Project Manager, as applicable.

TASK 2 - PROJECT ADMINISTRATION

Subtask 2.1 - Prepare Status Reports and Conduct Meetings

Under the direction of the County's Project Director, Contractor's Project Manager shall provide full project management and control of project activities for the Application Software implementation phase at each County Facility. This task shall include, but not be limited to:

- (A) Planning and direction;
- (B) Status reporting;
- (C) Incorporation of County's business, security and technical requirements;
- (D) As agreed upon, incorporation of required software modifications.
- (E) Management and tracking of all issues and their resolution;
- (F) Management of software change control process.

Contractor's Project Manager, Contractor's Facility Project Manager(s) and County's Facility Project Managers shall report project status on a regular basis for each County Facility and shall participate in regular status meetings. The project and reporting system shall include, but not be limited to, the following components for each County Facility:

- (A) Updated Implementation Project Plan;
- (B) Status Reports and Meetings;
- (C) Steering Committee Reports and Meetings;
- (D) Ongoing Issues Report.

As part of project management, County and Contractor shall ensure that each County Facility realizes the maximum benefit from the System provided by Contractor through a proactive and independent review of the project's progress and quality. The Project Status Reports prepared by Contractor's Project Manager pursuant to this Subtask 2.1 shall be used as the mechanism for Contractor to report any project risks or problems identified as part of the quality assurance process.

Deliverable 2.1 - Status Reports and Meetings

Contractor's Project Manager shall prepare and present to County's Project Manager and the applicable County's Facility Project Manager, a Status Report documenting project progress, plans and outstanding issues for each County Facility. Contractor's Project Manager shall meet with the County's Project Manager and applicable County's Facility Project Manager at least bi-weekly to review these Project Status Reports and any related matters. All variances shall be presented for approval at the Status Meeting. The first report shall be presented to the County's Project Manager and applicable County's Facility Project Manager fourteen (14) calendar days following the Effective Date, in a format approved by the County.

TASK 3 – PROJECT MANAGEMENT AND CONSULTATION

Subtask 3.1 – Dedicate Contractor's Facility Project Manager

Contractor shall dedicate at most two Contractor's Facility Project Manager(s) for the County Facilities assigned by County, who will responsible for performing the tasks set forth in, and pursuant to, this Subtask 3.1 below.

Contractor's Facility Project Manager(s) shall report administratively to County's Project Manager on the specific tasks and deliverables of this project.

Contractor's Facility Project Manager(s) shall be available to meet with County's Project Manager, County Steering Committee members and stakeholders at County Facilities or at alternative meeting sites as needed. Unless otherwise directed by County, Contractor's Facility Project Manager(s) shall be available to work on-site at County Facilities on a full-time basis.

Contractor's Facility Project Manager(s) shall provide direction and leadership on any remaining or additional procurement tasks that have not been completed by the beginning of this engagement, including Functional Requirements development.

Contractor's Facility Project Manager(s) shall use the Implementation Project Plan developed in Subtask 1.3 (Develop Implementation Project Plan) to develop in conjunction with the County's Project Manager and the applicable County's Facility Project Manager a detailed Project Work Plan which shall include without limitation County and Contractor tasks, subtasks, milestones, deliverables, baseline start and end dates, actual start and end dates, names and job title of personnel responsible for each step, dependencies to complete each of the items identified and any other information requested by County.

Contractor's Facility Project Manager(s) shall attend Steering Committee meetings, prepare needed documentation, participate in presentations, facilitate discussion and document project-specific decisions for action and project records.

Contractor's Facility Project Manager(s) shall manage the scope and timing of the ORSOS project activities to ensure objectives and schedules are met. Contractor's Facility Project Manager(s) shall recommend policy and procedure changes if necessary, including criteria for prioritization, to the Steering Committee. Contractor's Facility Project Manager(s) shall implement those policies and procedures as approved. Contractor's Facility Project Manager(s) shall communicate approved changes to County's Project Manager using the appropriate vehicle and format as stated in the policies and procedures.

Under direction of the County's Project Manager, Contractor's Facility Project Manager(s) shall provide oversight, guidance, and leadership to all project team members including Health Service Administration (HSA), County Facility information technology (IT) staff and ORSOS staff responsible for system installation, implementation, upgrade and maintenance and to ensure understanding of the scope and objectives of the ORSOS project as well as expectations for County Facility participation in the project.

Contractor's Facility Project Manager(s) shall review current and approved design workflow procedures to ensure that ORSOS is used to its maximum benefit within County.

Contractor's Facility Project Manager(s) shall direct the development of dictionaries, catalogues, reports and parameters that constitute end user configuration decisions. Contractor's Facility Project Manager(s) shall involve the County to determine impact of decisions under consideration.

Contractor's Facility Project Manager(s) shall collaborate with other DHS workgroups and project teams to define detailed interface specifications and oversee their implementation. Contractor's Facility Project Manager(s) shall ensure that all Interfaces comply with industry standards.

Contractor's Facility Project Manager(s) shall direct the analysis, testing, and validation of the system configuration including all Interfaces, upgrades and enhancements to ensure functionality and performance of System.

Deliverable 3.1 – Qualified Contractor's Facility Project Manager

Contractor will dedicate at most two full time employees for County Facilities to serve as Contractor's Facility Project Manager(s), who will perform all of the tasks identified in Subtask 3.1 (Dedicate Contractor's Facility Project Manager) above.

TASK 4 – SYSTEM CONFIGURATION ASSESSMENT AND CERTIFICATION

Subtask 4.1 – Specify Minimum System Environment Configuration

Contractor shall specify the minimum configuration for System Environment, including System Hardware and Facility Network, for the System to operate in accordance with the Specifications, including Functional Requirements and Application Software Documentation, and System Performance Requirements, including Response Time, which shall be documented in Section I (Minimum System Environment Configuration) of Attachment A.3 (System Environment).

Deliverable 4.1 – Minimum System Environment Configuration

Contractor shall provide to County, in writing, the minimum configuration for System Environment in accordance with Subtask 4.1 (Specify Minimum System Environment Configuration).

Subtask 4.2 – Analyze System Environment and Recommend Changes

Prior to Application Software deployment at each County Facility, Contractor shall conduct an analysis of System Environment at each County Facility described in Section II (System Environment Specifications) of Attachment A.3 (System Environment), including System Hardware and Facility Network, and make a determination whether such System Environment meets the minimum System Environment requirements provided under Deliverable 4.1 (Minimum System Environment Configuration) and can accommodate, during the term of the Agreement, the Specifications, including Functional Requirements and Application Software Documentation, and System Performance Requirements, including Response Time. If Contractor determines the County System Environment to be inadequate, Contractor shall recommend to County in writing the changes to the System Environment, including Additional Hardware and System Environment upgrades, necessary to accomplish the work described in this Exhibit A, which shall update Section II (System Environment Specifications) of Attachment A.3 (System Environment).

Contractor shall have no responsibility for upkeep and maintenance of County's System Environment and/or System Hardware or network or any failure of any of the foregoing not caused by an Application Software Deficiency.

Deliverable 4.2 – System Environment Certification

Prior to Application Software deployment at each County Facility, Contractor shall certify in writing that the County Facility System Environment, including

System Hardware and Facility Network, described in Section II (System Environment Specifications) of Attachment A.3 (System Environment), as modified pursuant to Deliverable 4.1 (Minimum System Environment Configuration) and approved and/or upgraded by Contractor pursuant to Subtask 4.2 (Analyze System Environment and Recommend Changes), will satisfy the Specifications and System Performance Requirements of the applicable County Facility.

Subtask 4.3 – Recommend and Analyze Third Party Software

Contractor shall specify all Third Party Software required for the operation of ORSOS and meeting the Functional Requirements, as listed in Section II (Operating Software) of Attachment A.2 (System Software). In addition, Contractor shall specify all Third Party Products, provided by Third Party Partners, County may elect to acquire during the term of this Agreement as Additional Software, which are compatible with ORSOS, as listed in Section III (Third Party Products) of Attachment A.2 (System Software).

Deliverable 4.3 – Third Party Software Certification

Contractor shall certify in writing (i) that the Third Party Software listed in Section II (Third Party Software) of Attachment A.2 (System Software), following Contractor's recommendation pursuant to Subtask 4.3 (Recommend and Analyze Third Party Software), shall meet the Functional Requirements and (ii) that the Third Party Products listed in Section III (Third Party Products) of Attachment A.2 (System Software), following Contractor's analysis and approval pursuant to Subtask 4.3 (Recommend and Analyze Third Party Software), are compatible with the Application Software.

TASK 5 – APPLICATION SOFTWARE DEPLOYMENT

Subtask 5.1 – Develop Deployment Plan

Contractor shall develop a Deployment Plan that identifies, without limitation, the technical configuration required for the System Software to be installed for Production Use at each County Facility. As part of this Deployment Plan, Contractor shall, without limitation:

- (1) Identify any environmental modifications;
- (2) Identify operating system setting requirements required for the System Software;
- (3) Identify method of accessing the System remotely;

- (4) Verify that installed application is operational; and
- (5) Identify County Facility contacts.

If necessary, Contractor shall update Attachment A.2 (System Software) and Attachment A.3 (System Environment) accordingly based on the Deployment Plan.

Deliverable 5.1 - Deployment Plan

Contractor shall prepare and deliver to each County Facility in writing for County approval the Deployment Plan that, without limitation, identifies the logistics, timing and technical configuration required for the installation and Production Use of the System in accordance with Subtask 5.1 (Develop Deployment Plan).

Subtask 5.2 – Install Baseline Application

Upon County's written approval of the Deployment Plan, Contractor shall install at each County Facility the Baseline Application as required hereunder to meet the Functional Requirements.

Deliverable 5.2 - Successfully Installed Baseline Application

Contractor shall provide to County's Project Director written documentation of successfully installed Baseline Application at each County Facility in accordance with Subtask 5.2 (Install Baseline Application).

TASK 6 -DATA CONVERSION AND MIGRATION

Subtask 6.1 – Develop Data Conversion and Migration Plan

Contractor shall develop a Data Conversion and Migration Plan for each Existing Facility to reflect the detailed tasks necessary for the conversion of existing data. The plan shall include without limitation, the following:

- (A) Schedule(s) for conversion of existing ORSOS electronic data;
- (B) Scanning of current databases to identify any validation issues that should be resolved prior to conversion effort;
- (C) Specified sample records to be monitored to ensure that data converted is as intended when records themselves have been converted;

- (D) Definition of controls that will ensure that all records were either successfully converted or identified for exception processing;
- (E) Definition of methods to be employed to add records to the database if they did not convert successfully;
- (F) Conversion of any Custom Reports identified in the Implementation Project Plan, as agreed to by County and Contractor.

Deliverable 6.1 - Data Conversion and Migration Plan

Contractor shall deliver to County's Project Director and/or County's Project Manager for approval a detailed written Data Conversion and Migration Plan for each Existing Facility that includes, without limitation, the following:

- (A) Conversion of existing electronic data to the new System formats;
- (B) Integration of data from all required internal and external sources and its conversion into standardized electronic format;
- (C) Plan for inputting additional data necessary for the new System;
- (D) Conversion of any Custom Reports required in the Implementation Project Plan.

Subtask 6.2 - Perform Conversion and Migration

Following completion of Application Software deployment under Task 5 (Application Software Deployment) at each Existing Facility, Contractor shall perform data conversion and migration pursuant to the Data Conversion and Migration Plan delivered to County under Deliverable 6.1 (Data Conversion and Migration Plan) and provide the Exception Report.

Deliverable 6.2 - Successfully Converted and Migrated Data

Contractor shall certify in writing that all data at each Existing Facility has been successfully converted and migrated in accordance with Subtask 6.2 (Perform Conversion and Migration), including an Exception Report.

TASK 7 – TEST PLANS

For each County Facility, Contractor shall develop test plans for each of the Acceptance Tests (hereinafter separately or cumulatively "Test Plan(s)") in the format approved by County, as specifically described in this Task 7 below. The

TABLE OF CONTENTS

1.	APPLICABLE DOCUMENTS AND DEFINITIONS	1
2.	ADMINISTRATION OF AGREEMENT - COUNTY	21
3.	ADMINISTRATION OF AGREEMENT - CONTRACTOR	23
4.	CHANGE NOTICES AND AMENDMENTS	25
5.	WORK	00
6.	PROJECT SCHEDULE; MILESTONES	30
7.	TERM	21
8.	CONTRACT SUM	22
9.	INVOICES AND PAYMENTS	25
10.	WARRANTY AND CORRECTION OF DEFICIENCIES	38
11.	OWNERSHIP AND LICENSE	40
12.	ACCEPTANCE OF SYSTEM BY COUNTY	48
13.	SYSTEM USEINDEMNIFICATION, INSURANCE AND PERFORMANCE SECURITY	51
14.	INDEMNIFICATION, INSURANCE AND PERFORMANCE SECURITY	51
15.	PROPRIETARY CONSIDERATIONS	56
16.	INTELLECTUAL PROPERTY INDEMNIFICATION	58
17.	PROHIBITION AGAINST ASSIGNMENT AND DELEGATION	60
18.	SUBCONTRACTING	60
19.	DISCLOSURE OF INFORMATION	63
20.	CONFIDENTIALITY	63
21.	TERMINATION FOR DEFAULT	64
22.	TERMINATION FOR CONVENIENCE	66
23.	TERMINATION FOR INSOLVENCY	67
24.	TERMINATION FOR IMPROPER CONSIDERATION	67
25.	TERMINATION FOR GRATUITIES	68
26.	RECORDS AND AUDITS	68
27.	INDEPENDENT CONTRACTOR STATUS	69
28.	WARRANTY AGAINST CONTINGENT FEES	70
29.	MOST FAVORED PUBLIC ENTITY	70
30.	CONFLICT OF INTEREST	70
31.	COUNTY'S QUALITY ASSURANCE PLAN	71
32.	FORCE MAJEURE	71
33.	UNLAWFUL SOLICITATION	72
34.	RESOLICITATION OF BIDS AND PROPOSALS	72
35.	COMPLIANCE WITH APPLICABLE LAWS	72
36.	FAIR LABOR STANDARDS	73
37.	NONDISCRIMINATION AND COMPLIANCE WITH CIVIL RIGHTS LAWS	73
38.	NONDISCRIMINATION IN SERVICES	74
39.	INTENTIONALLY OMITTED	75
40.	RESTRICTIONS ON LOBBYING	75
41.	EMPLOYMENT ELIGIBILITY VERIFICATION	75
42.	HIRING OF EMPLOYEES	76
43.	CONTRACTOR'S WARRANTY OF ADHERENCE TO COUNTY'S CHILD SUPPORT	ORT
	COMPLIANCE PROGRAMTERMINATION FOR BREACH OF WARRANTY TO MAINTAIN COMPLIANCE W	76
44.	TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN COMPLIANCE W	VITH
	COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM	77
45.	CONTRACTOR'S OBLIGATIONS UNDER HIPAA	77
46.	NOTICE TO EMPLOYEES REGARDING THE FEDERAL EARNED INCOME CR.	EDIT77

47.	CONTRACTOR RESPONSIBILITY AND DEBARMENT	77
48.	COUNTY AUDIT SETTLEMENTS	79
49.	FEDERAL ACCESS TO RECORDS	79
50.	LICENSES, PERMITS, REGISTRATIONS, ACCREDITATIONS AND CERTIFICATES	79
51.	NEW TECHNOLOGY	Rr
52.	NO THIRD PARTY BENEFICIARIES	Rſ
53.	GOVERNING LAW, JURISDICTION AND VENUE	80
54.	DISPUTE RESOLUTION PROCEDURE	30
55.	WAIVER	R′
56.	CONTRACTOR PERFORMANCE DURING CIVIL UNREST AND DISASTER	32
57.	DAMAGE TO COUNTY FACILITIES, BUILDINGS OR GROUNDS	
58.	AUTHORIZATION WARRANTY	83
59.	FORMS AND PROCEDURES	33
60.	MINIMUM AGE, LANGUAGE SKILLS AND LEGAL STATUS OF CONTRACTOR	
	PERSONNEL	33
61.	VALIDITY AND SEVERABILITY	33
62.	NOTICES	83
63.	NO PAYMENT FOR SERVICES PROVIDED FOLLOWING	
	EXPIRATION/TERMINATION OF AGREEMENT	84
64.	ARM'S LENGTH NEGOTIATIONS	35
65.	NON-EXCLUSIVITY	35
66.	ACCESS TO COUNTY FACILITIES	35
67.	COUNTY FACILITY OFFICE SPACE	35
68.	PHYSICAL ALTERATIONS	35
69.	CONTRACTOR'S OFFICES	35
70.	DELIVERY AND RISK OF LOSS	36
71.	STAFF PERFORMANCE WHILE UNDER THE INFLUENCE	36
72.	TIME IS OF THE ESSENCE	36
73.	ASSIGNMENT BY COUNTY	36
74.	CAPTIONS AND PARAGRAPH HEADINGS	36
75.	NOTICE OF DELAYS	36
76.	COUNTY POLICY REGARDING RECYCLED PAPER	36
77.	COMPLIANCE WITH JURY SERVICE PROGRAM	86
78.	SURVIVAL	88
SIGNA	TURE PAGE	9(

EXHIBITS

<u>EXHIBITS</u>				
Exhibit A – Statement	of Work			
	of Work – Required Tasks			
	of Work – Optional Tasks			
	Functional Requirements			
	System Software			
	Baseline Application			
	Core Application			
	Base ORSOS Module			
	Additional Modules			
	Baseline Customizations			
	Baseline Interfaces			
	Baseline Modifications			
C -	Application Third Party Software			
D -	Data Conversions			
II –	Third Party Software			
Ш –	Third Party Products			
Schedule A.2.1 -	Integration Server Terms and Conditions			
Schedule A.2.2 -	Business Objects Premium Terms and Conditions			
Attachment A.3 –	System Environment			
I –				
Π -				
	System Hardware			
В -	Facility Network			
Attachment A.4 –				
	Post-Implementation Work			
	Application Modifications			
	Customizations			
	Additional Software			
	Professional Services			
	Consulting Services			
	Additional Training			
Attachment A.6 –				
Exhibit B – Schedule				
_	Deliverables			
	Implementation Cost			
	Maintenance and Support			
	Contractor's Facility Project Manager			
	Application Modifications			
	Customizations			
	Additional Software			
	Professional Services			
A -	Consulting Services			
	Additional Training			
VII –	Pool Dollars			

VIII - Contract Sum

Schedule B.1

- Software and Implementation Services

Exhibit C – Implementation Plan

Exhibit D - Maintenance and Support

Schedule D.1 - Incident Tracking

Schedule D.2 - System Performance Requirements

Schedule D.3 - Correction of Deficiencies

Exhibit E - Employee Acknowledgment, Confidentiality and Assignment Agreement

Exhibit F - Contractor's EEO Certification Exhibit G - Administration of Agreement

I – County's Key Personnel

II – Contractor's Key Personnel

Exhibit H - Source Code Escrow Agreement

Exhibit I — Business Associate Protected Health Information Disclosure Agreement (Business Associate Agreement)

Exhibit J - Safely Surrendered Baby Law

AGREEMENT BETWEEN COUNTY OF LOS ANGELES

AND

PST PRODUCTS, LLC DBA PER-SE TECHNOLOGIES, INC. FOR A

OPERATING ROOM SCHEDULING OFFICE SYSTEM

THIS AGREEMENT is made and	entered into this	day of	, 2006, by and
between the County of Los Angele	es (hereinafter "Coun	ty") and PST Produc	
Technologies, Inc., a	corporation (he	ereinafter "Contracto	r").

RECITALS

WHEREAS, pursuant to California Health and Safety Code sections 1441 and 1445, County has established and operates, through its Department of Health Services (hereinafter "DHS"), a comprehensive healthcare system for County's population; and

WHEREAS, Contractor has granted to County under prior agreement(s) an unlimited perpetual license to use Contractor's Operating Room Scheduling Office System (hereinafter "ORSOS") at five County Facilities; and

WHEREAS, Contractor has been maintaining ORSOS at the three of the Existing Facilities; and

WHEREAS, upon County's request, Contractor has agreed (i) to upgrade ORSOS to a new database platform at the three Existing Facilities utilizing ORSOS, (ii) to implement ORSOS at the remaining two New Facilities, (iii) to provide Maintenance and Support services for all five County Facilities, and (iv) to provide Post-Implementation Work, including Professional Services and Application Modifications, up to a limit specified herein during the term of the Agreement.

NOW THEREFORE, in consideration of the mutual promises, covenants and conditions set forth herein, County and Contractor agree as follows:

1. APPLICABLE DOCUMENTS AND DEFINITIONS

1.1 Interpretation

The body of this Agreement (including, without limitation, the Recitals hereto), along with Exhibits A, B, C, D, E, F, G, H, I and J and all Attachments and Schedules thereto, all attached hereto and described in this Paragraph 1.1 below, are incorporated herein by reference. The body of this Agreement (including, without limitation, the Recitals hereto), along with such Exhibits, Attachments and Schedules, collectively form and throughout and hereinafter are referred to as the "Agreement". In the event of any conflict or inconsistency in the definition or interpretation of any word, responsibility, schedule or the contents or description of any task, subtask, deliverable, goods, service or other work, or otherwise, between the body of this Agreement (including, without limitation, the Recitals hereto) and the Exhibits (including,

without limitation, the Attachments and Schedules thereto) or between the Exhibits (including, without limitation, the Attachments and Schedules thereto), such conflict or inconsistency shall be resolved by giving precedence first to the body of this Agreement (including, without limitation, the Recitals hereto), and then to the Exhibits (including, without limitation, the Attachments and Schedules thereto) according to the following descending priority:

Exhibit A - Statement of Work

Exhibit A.1— Statement of Work – Required Tasks

Exhibit A.2- Statement of Work - Optional Tasks

Attachment A.1 – Functional Requirements

Attachment A.2 - System Software

Schedule A.2.1 – Integration Server Terms and Conditions

Schedule A.2.2 — Business Objects Premium Terms and Conditions

Attachment A.3 – System Environment

Attachment A.4 - System Training

Attachment A.5 – Post-Implementation Work

Attachment A.6 - County Facilities

Exhibit B - Schedule of Payments

Exhibit C – Implementation Plan

Exhibit D - Maintenance and Support

Schedule D.1 – Incident Tracking

Schedule D.2 - System Performance Requirements

Schedule D.3 - Correction of Deficiencies

Exhibit E - Employee Acknowledgment, Confidentiality and Assignment Agreement

Exhibit F - Contractor's EEO Certification

Exhibit G - Administration of Agreement

Exhibit H - Source Code Escrow Agreement

Exhibit I — Business Associate Protected Health Information Disclosure Agreement

(Business Associate Agreement)

Exhibit J - Safely Surrendered Baby Law

As with respect to the Exhibits and the Attachments and Schedules attached thereto, precedence first shall be given to the Exhibits, and then to the associated Attachments or Schedules, as applicable.

1.2 Entire Agreement

The body of this Agreement, together with the Recitals and all Exhibits, Attachments and Schedules, as further defined in Paragraph 1.1 (Interpretation) above, constitutes the complete and exclusive statement of understanding between the parties and supersedes all previous and contemporaneous agreements, whether written or oral, and any and all communications and negotiations between the parties relating to the subject matter of this Agreement.

1.3 Definitions

The terms and phrases in this Paragraph 1.3 in quotes and with initial letter capitalized, where applicable, shall have the meanings set forth below when used in this Agreement,

throughout and hereafter.

Acceptance

As used herein, the term "Acceptance" shall mean County's written approval of any tasks, subtasks, deliverables, goods, services or other work, including Acceptance Tests, provided by Contractor to County pursuant to this Agreement.

Acceptance Test(s)

As used herein, the term "Acceptance Test(s)", whether singular or plural, shall mean any or all of the tests conducted in accordance with Task 8 (Acceptance Tests) of Exhibit A.1 (Statement of Work – Required Tasks), including Reliability Test, Integrated Functional Test and Stress Test, as defined in Paragraph 12.2 (Acceptance Tests).

Additional Hardware

As used herein, the term "Additional Hardware" shall mean the additional System Hardware identified in Section II.A (System Hardware) of Attachment A.3 (System Environment) that is acquired by County pursuant to Contractor's recommendation under Subtask 4.2 (Analyze System Environment and Recommend Changes) of Exhibit A.1 (Statement of Work – Required Tasks) to be part of System Hardware, as provided in Paragraph 5.3 (System Environment) for meeting the System Performance Requirements hereunder. Reference to Additional Hardware may include one or more components thereof or all Additional Hardware in the System.

Additional Software

As used herein, the term "Additional Software" shall mean those software modules and related Documentation, which Contractor may provide upon County's request therefor in accordance with Paragraphs 5.6.1 (Application Modifications) and 8.5 (Application Modifications) and Subtask 12.2 (Provide Additional Software) of Exhibit A.2 (Statement of Work – Optional Tasks), which will update Section I.B (Additional Software) of Attachment A.5 (Post-Implementation Work) as part of Application Modifications and which will become part of Application Software. Reference to Additional Software may include one or more components or modules thereof or all Additional Software in the System.

Additional Training

As used herein, the term "Additional Training" shall mean the training to be described in Section II.B (Additional Training) of Attachment A.5 (Post-Implementation Work), which may include train-the-trainer and end-user training, which Contractor may provide upon County's request therefor during the term of this Agreement pursuant to Subtask 13.2 (Conduct Additional Training) of Exhibit A.2 (Statement of Work – Optional Tasks) and Paragraph 5.6.2 (Professional Services).

<u>Amendment</u>

As used herein, the term "Amendment" shall have the meaning set forth in Paragraph 4 (Change Notices and Amendments).

Application Modifications

As used herein, the term "Application Modifications" shall mean Customizations and/or Additional Software, including Future Interfaces, which Contractor may provide upon County's request therefor in accordance with Task 12 (Application Modifications) of Exhibit A.2 (Statement of Work – Optional Tasks), and identified in Section I (Application Modifications) of Attachment A.5 (Post-Implementation Work), as described in Paragraph 8.5 (Application Modifications). Once accepted and approved by County, Application Modifications shall become part of, and be deemed, Application Software for the purpose of this Agreement. Reference to Application Modifications may include one or more components or modules thereof or all Application Modifications in the System.

Application Software

As used herein, the term "Application Software" shall mean all Baseline Application, Application Modifications accepted and approved by County, Updates, Third Party Products and any successor products provided by Contractor pursuant to Paragraph 11.2.4 (Successor Product), and related Documentation, provided by Contractor or County, as applicable, pursuant to this Agreement. Reference to Application Software may include one or more components or modules thereof or all Application Software in the System.

Application Third Party Software

As used herein, the term "Application Third Party Software" shall mean the software and related Documentation licensed by County as part of the Baseline Application in accordance with Contractor's specifications set forth in Section I.C (Application Third Party Software) of Attachment A.2 (System Software). Reference to Application Third Party Software may include one or more components or modules thereof or all Application Third Party Software in the System.

Baseline Application

As used herein, the term "Baseline Application" shall mean Core Application, Data Conversion programs, if any, Application Third Party Software and any Baseline Customizations, and related Documentation, provided by Contractor pursuant to this Agreement and identified in Section I (Baseline Application) of Attachment A.2 (System Software) in order to meet the Functional Requirements. Reference to Baseline Application may include one or more components or modules thereof or all Baseline Application in the System.

Baseline Customizations

As used herein, the term "Baseline Customizations" shall mean Baseline Interfaces and/or Baseline Modifications, if any, provided by Contractor pursuant to this Agreement and identified in Section I.B (Baseline Customizations) of Attachment A.2 (System Software) in

order to meet the Functional Requirements. Reference to Baseline Customizations may include one or more components or modules thereof or all Baseline Customizations in the System.

Baseline Interfaces

As used herein, the term "Baseline Interfaces" shall mean Interfaces provided by Contractor pursuant to this Agreement and identified in Section I.B.2 (Baseline Interfaces) of Attachment A.2 (System Software) in order to meet the Functional Requirements. Reference to Baseline Interfaces may include one or more components or modules thereof of all Baseline Interfaces in the System.

Baseline Modifications

As used herein, the term "Baseline Modifications" shall mean software modifications to the Core Application, including, but not limited to, all source code, object code and related Documentation, provided by Contractor pursuant to this Agreement and identified in Section I.B.2 (Baseline Modifications) of Attachment A.2 (System Software) in order to meet the Functional Requirements. Reference to Baseline Modifications may include one or more components or modules thereof or all Baseline Modifications in the System.

Board of Supervisors

As used herein, the term "Board of Supervisors" shall mean County's Board of Supervisors, which is the governing body of County.

Business Associate

As used herein, the term "Business Associate" shall have the meaning set forth in the Business Associate Agreement.

Business Associate Agreement

As used herein, the term "Business Associate Agreement" shall mean Exhibit I (Business Associate Protected Health Information Disclosure Agreement).

Business Day(s)

As used herein, the term "Business Day(s)", whether singular or plural, shall mean Monday through Friday, excluding County observed holidays, unless stated otherwise.

Change Notice

As used herein, the term "Change Notice" shall have the meaning given to such term in Paragraph 4 (Change Notices and Amendments).

Component(s)

÷.

As used herein, the term "Component(s)" shall mean, individually and collectively, each and every component of the System, including System Software and System Environment, irrespective of whether provided by County or Contractor.

Consulting Services

As used herein, the term "Consulting Services" shall mean Professional Services to be described in Section II.A (Consulting Services) of Attachment A.5 (Post-Implementation Work), which may be provided by Contractor upon County's request therefor during the term of this Agreement pursuant to Subtask 13.1 (Provide Consulting Services) of Exhibit A.2 (Statement of Work – Optional Tasks), as described in Paragraph 5.6.2 (Professional Services).

Contract Sum

As used herein, the term "Contract Sum" shall mean the total monetary amount payable by County to Contractor hereunder, as set forth in Paragraph 8.1 (Maximum Contract Sum). The Contract Sum shall not be adjusted for any costs or expenses whatsoever of Contractor.

Contractor

As used herein, the term "Contractor" shall mean PST Products, LLC d/b/a Per-Se Technologies.

Contractor's Facility Project Manager(s)

As used herein, the term "Contractor's Facility Project Manager(s)", whether singular or plural, shall mean either one or both of the full time employees of Contractor designated to perform the tasks identified in Subtask 3.1 (Dedicate Contractor's Facility Project Manager) of Exhibit A.1 (Statement of Work – Required Tasks) for the County Facilities.

Contractor's Key Personnel

As used herein, the term "Contractor's Key Personnel" shall have the meaning set forth in Paragraph 3.1 (Administration of Agreement).

Contractor's Project Director

As used herein, the term "Contractor's Project Director" shall have the meaning set forth in Paragraph 3.2.1 (Contractor's Project Director).

Contractor's Project Manager

As used herein, the term "Contractor's Project Manager" shall have the meaning set forth in Paragraph 3.2.2 (Contractor's Project Manager).

Core Application

Ť

As used herein, the term "Core Application" shall mean the software, including, but not limited to, all source code, object code and related Documentation, provided by Contractor pursuant to this Agreement as part of the Baseline Application and identified in Section I.A (Core Application) of Attachment A.2 (System Software), which shall meet some or all of the Functional Requirements. Reference to Core Application may include one or more components or modules thereof or all Core Application in the System.

County

As used herein, the term "County" shall mean the County of Los Angeles, California.

County Facility; County Facilities

As used herein, the term "County Facility(ies)", whether singular or plural, shall mean any one or all the Existing Facilities and New Facilities for which Contractor shall provide tasks, subtasks, deliverables, goods, services and other work under this Agreement.

County Materials

As used herein, the term "County Materials" shall have the meaning given to such term in Paragraph 15 (Proprietary Considerations).

County's Facility Project Manager

As used herein, the term "County's Facility Project Manager" shall have the meaning set forth in Paragraph 2.2.3 (County's Facility Project Manager).

County's Key Personnel

As used herein, the term "County's Key Personnel" shall have the meaning set forth in Paragraph 2.1 (Administration of Agreement).

County's Project Director

As used herein, the term "County's Project Director" shall have the meaning set forth in Paragraph 2.2.1 (County's Project Director).

County's Project Manager

As used herein, the term "County's Project Manager" shall have the meaning set forth in Paragraph 2.2.2 (County's Project Manager).

Customizations

As used herein, the term "Customizations" shall mean those software modifications and related Documentation, which may be provided by Contractor upon County's request therefor in accordance with Paragraphs 5.6.1 (Application Modifications) and 8.5 (Application Modifications) and Subtask 12.1 (Develop Customizations) of Exhibit A.2 (Statement of

î.F

Work – Optional Tasks), which will update Section I.A (Customizations) of Attachment A.5 (Post-Implementation Work) as part of Application Modifications and which will become part of Application Software. Reference to Customizations may include one or more components or modules thereof or all Customizations in the System.

Custom Reports

As used herein the term "Custom Reports" shall mean the reports agreed to by the parties to be provided by Contractor for each Existing Facility as part of Implementation Services.

Data Conversion(s)

As used herein, the term "Data Conversion(s)", whether singular or plural, shall mean the conversion of existing ORSOS electronic data at the Existing Facilities and software programs, if any, to be provided by Contractor pursuant to Task 6 (Data Conversion and Migration) of Exhibit A.1 (Statement of Work – Required Tasks) in order to meet the Functional Requirements and other requirements specified herein.

Day(s)

As used herein, the term "day(s)", whether singular or plural, shall mean calendar day(s).

Deficiency; Deficiencies

As used herein, the term "Deficiency(ies)", whether singular or plural, shall mean and include any defect(s) in the Application Software design, development, implementation, materials and/or workmanship; error(s), omission(s); deviation(s) in the Application Software from published and/or mutually agreed upon standards; deviation(s) in the Application Software from any of the requirements or any County approved deliverables or Specifications under the Agreement; and/or other Problems which result in the Application Software, or any Component thereof, not performing in strict compliance with the provisions of this Agreement, including, but not limited to, the Specifications, the Functional Requirements and Performance Requirements.

Deliverable(s); deliverable(s)

As used herein, the terms "Deliverable(s)" and "deliverable(s)", whether singular or plural, shall mean items and/or services provided or to be provided by Contractor under this Agreement, including numbered Deliverable(s) in Exhibit A.1 (Statement of Work – Required Tasks) and Exhibit A.2 (Statement of Work – Optional Tasks).

Department

As used herein, the term "Department" shall mean County's Department of Health Services or any other department or subdivision of County formed by restructuring or reorganization of the Department of Health Services pursuant to the Board's approval.

Derivative Works

As used herein, the term "Derivative Works" shall mean all works based upon all or a portion of a pre-existing work and that which would be a copyright infringement if prepared without the authorization of the copyright owner. Derivative Works are subject to the ownership rights and licenses in the pre-existing work.

Design Document

As used herein, the term "Design Document" shall mean the document containing the high-level design of the System provided by Contractor in accordance with Deliverable 1.2 (Design Document) of Exhibit A.1 (Statement of Work – Required Tasks) for each County Facility.

Director

As used herein, the term "Director" shall mean the Director of the Department, including any Acting Director or other designee.

Dispute Resolution Procedure

As used herein, the term "Dispute Resolution Procedure" shall mean the provisions of Paragraph 54 (Dispute Resolution Procedure) describing the procedure for resolving the disputes arising under or with respect to this Agreement.

Documentation

As used herein, the term "Documentation" shall mean any and all written and electronic materials, including, but not limited to, documentation relating to software specifications and functions, training course materials, Specifications, customer technical manuals, customer handbooks, customer flow charts, customer technical information, customer reference materials, customer user manuals, customer operating manuals, quick-reference guides, FAQs, and all other instructions and reference materials relating to the capabilities, operation, installation and use of the System Software and/or applicable Components.

Downtime

As used herein, the term "Downtime" shall mean that period of time when the System or any System Component, due to any Deficiency(ies), fails to function, and as a result, County is unable to utilize the System in accordance with the Specifications and this Agreement.

Downtime Credits

As used herein, the term "Downtime Credit(s)", whether singular or plural, shall have the meaning set forth in Paragraph 5.5.2 (Downtime Credits) and Section IV (Downtime Credits) of Schedule D.3 (Correction of Deficiencies).

Due Date

As used herein, the term "Due Date" shall have the meaning set forth in Paragraph 8.2 (Credits to County).

Effective Date

As used herein, the term "Effective Date" shall mean the date of execution of this Agreement by County's Board of Supervisors.

Escrow Agent

As used herein, the term "Escrow Agent" shall have the meaning set forth in Paragraph 11.3 (Source Code).

Existing Facility; Existing Facilities

As used herein, the term "Existing Facility(ies)", whether singular of plural, shall mean any one or all of the County Facilities which currently utilize the older version of the Application Software, which Contractor shall upgrade under this Agreement. The Existing Facilities are set forth on Attachment A.6 (County Facilities).

Existing Hardware

As used herein, the term "Existing Hardware" shall mean County owned System Hardware identified in Section II.A (System Hardware) of Attachment A.3 (System Environment) and evaluated by Contractor for approval pursuant to Subtask 4.2 (Analyze System Environment and Recommend Changes) of Exhibit A.1 (Statement of Work – Required Tasks) to be part of System Hardware, as provided in Paragraph 5.3 (System Environment). Reference to Existing Hardware may include one or more components thereof or all Existing Hardware in the System.

Extended Term

As used herein, the term "Extended Term" shall have the meaning set forth in Paragraph 7.2 (Extended Term).

Facility Network

As used herein, the term "Facility Network" shall mean the networking Component of System Environment at each County Facility described in Section II.B (Facility Network) of Attachment A.3 (System Environment).

Final Acceptance

As used herein, the term "Final Acceptance" shall mean County's written approval in accordance with the terms of this Agreement of Deliverable 9.1 (Non-Deficient System Production Use) of Exhibit A.1 (Statement of Work – Required Tasks) per each County Facility.

Fixed Hourly Rate

As used herein, the term "Fixed Hourly Rate" shall mean the hourly rate, specified in Section V.A (Customizations) and VI.A (Consulting Services) of Exhibit B (Schedule of Payments), for Customizations and Consulting Services which may be provided by Contractor upon County's request therefor pursuant to Subtask 12.1 (Develop Customizations) and Subtask 13.1 (Provide Consulting Services) of Exhibit A.2 (Statement of Work – Optional Tasks) respectively, as further described in Paragraphs 8.5 (Application Modifications) and 8.6 (Professional Services) respectively.

Functional Requirements

As used herein, the term "Functional Requirements" shall mean the business, technical and/or functional requirements of ORSOS identified in Attachment A.1 (Functional Requirements).

Future Interfaces

As used herein, the term "Future Interfaces" shall mean Interfaces, which Contractor may provide upon County's request therefor in accordance with Paragraphs 5.6.1 (Application Modifications) and 8.5 (Application Modifications) in the form of Customizations and/or Additional Software pursuant to Task 12 (Application Modifications) of Exhibit A.2 (Statement of Work – Optional Tasks) and which shall be identified in Section I (Application Modifications) of Attachment A.5 (Post-Implementation Work) as such. Reference to the Future Interfaces may include one or more components thereof or all Future Interfaces in the System.

Go-Live

As used herein, the term "Go-Live" shall mean the date of County's written approval of Deliverable 8.3 (Stress Test) of Exhibit A.1 (Statement of Work – Required Tasks).

Help Desk

As used herein, the term "Help Desk" shall mean Contractor's help desk for providing Support Services hereunder, as set forth in Exhibit D (Maintenance and Support) with all Schedules thereto.

HIS

A turnkey Healthcare Information System operating at the applicable County Facility.

HIPAA

As used herein, the term "HIPAA" shall mean Health Insurance Portability and Accountability Act and the rules and regulations from time to time promulgated thereunder, as further defined in the Business Associate Agreement, which mandates the safeguarding of personal and confidential medical information.

1.3

Implementation Cost

As used herein, the term "Implementation Cost" shall mean the fees for any of, or all, County Facilities for the License and Implementation Services related to the implementation of the Baseline Application, as specified in Schedule B.1 (Software and Implementation Services).

Implementation Plan

As used herein, the term "Implementation Plan" shall mean the agreed upon timeline for the upgrade and/or implementation of the ORSOS and completion of any other Tasks, Subtasks and Deliverables set forth in Exhibit A.1 (Statement of Work – Required Tasks), including any required Baseline Customizations and System Training, at each County Facility, as identified as Exhibit C (Implementation Plan).

Implementation Project Plan

As used herein, the term "Implementation Project Plan" shall mean an implementation document delivered to County pursuant to Deliverable 1.3 (Implementation Project Plan) of Exhibit A.1 (Statement of Work – Required Tasks).

<u>Implementation Services</u>

As used herein, the term "Implementation Services" shall mean Application Software deployment, Data Conversions, System Environment assessment, Acceptance Tests, System Training and other services related to the implementation of Application Software to be provided by Contractor at each County Facility pursuant to Exhibit A.1 (Statement of Work – Required Tasks).

Incident

As used herein, the term "Incident" shall mean problem(s) opened with Contractor's Help Desk in accordance with Schedule D.1 (Incident Tracking) while the Application Software is under Maintenance and Support, each of which will be assigned an Incident Number in Contractor's ITS for tracking the problem(s) from initial contact to final resolution pursuant to Schedule D.3 (Correction of Deficiencies).

Incident Tracking System; ITS

As used herein, the terms "Incident Tracking System" and "ITS" shall mean Contractor's system for reporting, tracking and monitoring System problems reported by County, as described in Exhibit D (Maintenance and Support), including Schedule D.1 (Incident Tracking) and Schedule D.4 (System Support Services).

Initial Term

As used herein, the term "Initial Term" shall have the meaning set forth in Paragraph 7.1 (Initial Term).

Integrated Functional Test

As used herein, the term "Integrated Functional Test" shall mean the Acceptance Test conducted in accordance with Subtask 8.2 (Conduct Integrated Functional Test) of Exhibit A.1 (Statement of Work – Required Tasks), as described in Paragraph 12.2.1.B (Integrated Functional Test).

Interfaces

As used herein, the term "Interfaces" shall mean the set of software mechanisms, consisting of Baseline Interfaces and Future Interfaces, which may be provided by Contractor under this Agreement, which allow the transfer of electronic data and/or software commands between computer systems, networks, applications or modules, and related Documentation. Reference to the Interfaces may include one or more components thereof or all Interfaces in the System.

Key Deliverable

As used herein, the term "Key Deliverable" shall have the meaning set forth in Paragraph 8.2 (Credits to County).

License

As used herein, the term "License" shall have the meaning set forth in Paragraph 11.2 (License).

Maintenance and Support

As used herein, the term "Maintenance and Support" shall have the meaning set forth in Paragraph 5.5 (Maintenance and Support).

Maintenance Fee(s)

As used herein, the term "Maintenance Fee(s)", whether singular or plural, shall mean fees for Maintenance and Support services specified in Section III (Maintenance and Support) of Exhibit B (Schedule of Payments).

Maintenance Services

As used herein, the term "Maintenance Services" shall have the meaning set forth in Exhibit D (Maintenance and Support) and shall comprise Maintenance and Support provided by Contractor under this Agreement.

Maximum Fixed Price

As used herein, the term "Maximum Fixed Price" shall mean the maximum amount to be paid by County to Contractor for Customizations, Additional Software, Consulting Services

1

and Additional Training, if applicable, approved by County for delivery by Contractor of optional services under, and in accordance with, Task 12 (Application Modifications) and Task 13 (Professional Services) of Exhibit A.2 (Statement of Work – Optional Tasks), as described in Paragraphs 8.5 (Application Modifications) and 8.6 (Professional Services) respectively.

Maximum Resolution Time

As used herein, the term "Maximum Resolution Time" shall mean the maximum time allowed for correction of each Severity Level of Deficiencies by Contractor as set forth in Section I (Problem Correction Priority) of Schedule D.3 (Correction of Deficiencies) and Exhibit D (Maintenance and Support).

Maximum Response Time

As used herein, the term "Maximum Response Time" shall mean the maximum acceptable Response Time for correction of each Severity Level of Deficiencies by Contractor as set forth in Schedule D.2 (System Performance Requirements).

Milestone

As used herein, the term "Milestone" shall have the meaning set forth in Paragraph 6.2 (Milestones).

New Facility; New Facilities

As used herein, the term "New Facility(ies)", whether singular of plural, shall mean any one or all of the County Facilities at which Contractor shall implement Application Software. The New Facilities are set forth on Attachment A.6 (County Facilities).

Operating Room Scheduling Office System; ORSOS

As used herein, the terms "Operating Room Scheduling Office System" and "ORSOS" shall have the same meaning as "System" defined in this Paragraph 1.3 below.

Optional Tasks

As used herein, the term "Optional Tasks" shall mean those tasks which may be performed by Contractor in accordance with Exhibit A.2 (Statement of Work – Optional Tasks) upon mutual agreement by both parties.

Per-Session Rate

As used herein, the term "Per-Session Rate" shall mean the Training session rate, specified in Section VI.B (Additional Training) of Exhibit B (Schedule of Payments), for Additional Training, which may be provided by Contractor upon County's request therefor pursuant to Subtask 13.2 (Conduct Additional Training) of Exhibit A.2 (Statement of Work – Optional Tasks) and Paragraph 8.6 (Professional Services).

Performance Requirements

As used herein, the term "Performance Requirements" shall mean the System performance requirements, including Response Times, of the ORSOS identified in Schedule D.2 (System Performance Requirements).

Pool Dollars

As used herein, the term "Pool Dollars" shall mean the maximum amount allocated under this Agreement for the provision by Contractor of optional Post-Implementation Work, including Application Modifications and Professional Services, approved by County in accordance with the term of this Agreement.

Post-Implementation Work

As used herein, the term "Post-Implementation Work" shall mean Application Modifications and/or Professional Services, which may be provided by Contractor upon County's request therefor in accordance with Exhibit A.2 (Statement of Work – Optional Tasks) pursuant to Paragraph 5.6 (Post-Implementation Work) and identified in Attachment A.5 (Post-Implementation Work).

Problem

As used herein, the term "Problem" shall mean an error or an issue relating to the Application Software, which degrades or limits its use as compared to the Specifications.

Production Use

As used herein, the term "Production Use" shall mean the actual use of the System for performance of County's applicable normal business operations.

Professional Services

As used herein, the term "Professional Services" shall mean Consulting Services and/or Additional Training, which may be provided by Contractor in accordance with Task 13 (Professional Services) and identified in the Section II (Professional Services) of Attachment A.5 (Post-Implementation Work), as described in Paragraph 8.6 (Professional Services).

Project Work Plan

As used herein, the term "Project Work Plan" shall mean System implementation plan provided by Contractor's Facility Project Manager in accordance with Subtask 3.1 (Dedicate Contractor's Facility Project Manager) of Exhibit A.1 (Statement of Work – Required Tasks) for each County Facility as designated by County.

Proposed Implementation Solution

As used herein, the term "Proposed Implementation Solution" shall mean Contractor's proposed System implementation solution provided in accordance with Deliverable 1.1 (Proposed Implementation Solution) of Exhibit A.1 (Statement of Work – Required Tasks) for each County Facility.

Proprietary Rights

As used herein, the term "Proprietary Rights" shall mean all legal and equitable rights, including all worldwide copyrights, patent rights, trade secrets, trademarks, confidential and proprietary information rights, moral rights, and all rights and title in and to the structure, sequence, and organization of a work of authorship, and all rights in and to any code, materials, pictures, interfaces, screen displays and audio visual displays and presentations, other than County Materials.

Release Condition(s)

As used herein, the term "Release Condition(s)", whether singular or plural, shall have the meaning set forth in Paragraph 11.3.2 (Source Code Release Conditions).

Reliability Test

As used herein, the term "Reliability Test" shall mean the Acceptance Test conducted in accordance with Subtask 8.1 (Conduct Reliability Test) of Exhibit A.1 (Statement of Work – Required Tasks), as described in Paragraph 12.2.1.A (Reliability Test).

Required Tasks

As used herein, the term "Required Tasks" shall mean those tasks which are required to be performed by Contractor under Exhibit A.1 (Statement of Work – Required Tasks).

Resolution Time

As used herein, the term "Resolution Time" shall mean the period of time from County's notification of a Deficiency to Contractor to its correction in accordance with Exhibit D (Maintenance and Support) and Schedule D.3 (Correction of Deficiencies).

Response Time

As used herein, the term "Response Time" shall mean the time elapsed from the entry of a query at a workstation to the time the workstation fully displays the complete results.

Schedule of Payments

As used herein, the term "Schedule of Payments" shall mean prices for Deliverables, rates and fees identified as Exhibit B (Schedule of Payments) with all Schedules thereto.

Scope of Work

12

As used herein, the term "Scope of Work" shall mean the scope of Post-Implementation Work for Application Modifications and Professional Services, which Contract may perform upon County's request therefor and approval thereof in accordance with Paragraph 5.6 (Post-Implementation Work) and Task 12 (Application Modifications) and Task 13 (Professional Services) of Exhibit A.2 (Statement of Work – Optional Tasks).

Severity Level(s)

As used herein, the term "Severity Level(s)", whether singular or plural, shall mean identified Severity Levels 1, 2, 3 and 4 for correction of Deficiencies, as defined in Section I (Problem Correction Priority) of Schedule D.3 (Correction of Deficiencies).

Source Code

As used herein, the term "Source Code" shall mean the computer programming code for Application Software that may be displayed in a form readable by a human programmer, to the extent available, developed for or licensed to County under this Agreement by Contractor, including all modifications, Updates, enhancements, corrections, patches, improvements and Version Releases, together with all Documentation and other proprietary information related to such source code.

Source Code Escrow Agreement

As used herein, the term "Source Escrow Agreement" shall mean an agreement between Contractor and a third party Source Code escrow agent, including all addenda, amendments and modifications thereto, for depositing the Source Code in accordance with Paragraph 11.3 (Source Code Escrow), attached hereto as Exhibit H (Source Code Escrow Agreement).

Specifications

As used herein, the term "Specifications" shall mean any or all of the following, as applicable:

- 1. All specifications, requirements and standards set forth in Attachment A.1 (Functional Requirements) and all reports specifications included as Deliverables in Exhibit A (Statement of Work), including Exhibit A.1 (Statement of Work Required Tasks) and/or Exhibit A.2 (Statement of Work Optional Tasks), as applicable.
- 2. All System performance requirements and standards set forth in this Agreement, including, but not limited to, Performance Requirements and Maximum Response Times identified in Schedule D.2 (System Performance Requirements).
- 3. The Documentation, to the extent not inconsistent with any of the foregoing in this definition.
- 4. All specifications identified as such by Contractor, including, but not limited to, all Design Documents, Implementation Project Plan, Project Work Plan and Proposed Implementation Solution, but only to the extent: (i) not inconsistent with any of the

- 1

foregoing in this Paragraph; and (ii) acceptable to County in accordance with the terms of this Agreement.

- 5. All System requirements and certifications provided by Contractor in accordance with this Agreement with respect to the System Environment and Third Party Software, as specified in Attachment A.3 (System Environment) and Section II (Third Party Software) of Attachment A.2 (System Software) respectively.
- 6. All written or electronic materials furnished by or through Contractor regarding the System, but only to the extent (i) not inconsistent with any of the foregoing in this definition and (ii) acceptable to County where applicable in accordance with the terms of this Agreement, which pertain to any element of the System, including but not limited to, outlining, describing or specifying (a) functionality, (b) features, (c) capacity, (d) availability, (e) response times, (f) accuracy or (g) any other performance or other criteria for the System or any element of the System or any System Component.

State

As used herein, the term "State" shall mean the State of California.

Statement of Work

As used herein, the term "Statement of Work" shall mean the work provided by Contractor pursuant to this Agreement identified in terms of Tasks, Subtasks and Deliverables in Exhibit A (Statement of Work), including Exhibit A.1 (Statement of Work – Required Tasks) and Exhibit A.2 (Statement of Work – Optional Tasks), and all Attachments thereto.

Stress Test

As used herein, the term "Stress Test" shall mean the Acceptance Test conducted in accordance with Subtask 8.3 (Conduct Stress Test) of Exhibit A.1 (Statement of Work – Required Tasks), as described in Paragraph 12.2.1.C (Stress Test).

Support Hours

As used herein, the term "Support Hours" shall mean twenty-four (24) hours per day, seven (7) days per week, 365/366 days per year.

Support Services

As used herein, the term "Support Services" shall have the meaning set forth in Exhibit D (Maintenance and Support) and shall comprise Maintenance and Support provided by Contractor under this Agreement.

System

As used herein, the term "System" shall mean all System Environment and System Software described in this Agreement and as otherwise agreed to by County and Contractor,

1

collectively comprising the Operating Room Scheduling Office System or ORSOS. Reference to the System may include one or more components or modules thereof or the entire System.

System Environment

As used herein, the term "System Environment" shall mean System Hardware and Facility Network at each County Facility's described in Section II (System Environment) of Attachment A.3 (System Environment).

System Hardware

As used herein, the term "System Hardware" shall mean Existing Hardware and Additional Hardware, including any test environment or fail-over hardware, provided by County in accordance with Contractor's specifications set forth in Section II.A (System Hardware) of Attachment A.3 (System Environment) and certified pursuant to Deliverable 4.2 (System Environment Certification) of Exhibit A.1 (Statement of Work – Required Tasks). Reference to the System Hardware may include one or more components thereof or all System Hardware in the System.

System Performance Requirements

As used herein, the term "System Performance Requirements" shall mean the performance requirements for the System set from in Schedule D.2 (System Performance Requirements).

System Performance Warranty Period

As used herein, the term "System Performance Warranty Period" shall have the meaning set forth in Paragraph 10.3 (System Performance Deficiencies) as described in Schedule D.2 (System Performance Requirements) and Exhibit D (Maintenance and Support).

System Software

As used herein, the term "System Software" shall mean the software and related Documentation, provided under this Agreement by Contractor or by County in accordance with Contractor's specifications and listed in Attachment A.2 (System Software), which shall consist of Application Software and Third Party Software. Reference to the System Software may include one or more components or modules thereof or all System Software in the System.

System Training

As used herein, the term "System Training" shall mean the Training, including train-the-trainer and end-user training, to be provided by Contractor during System upgrade and implementation pursuant to Subtask 10.1 (Provide System Training) of Exhibit A.1 (Statement of Work – Required Tasks) and Paragraph 5.4 (Implementation Services).

Task; task; Subtask; subtask

As used herein, the terms "Task", "task", "Subtask" and "subtask" shall mean one of the areas of work to be performed under this Agreement, including those identified as numbered Tasks and Subtasks in Exhibit A.1 (Statement of Work – Required Tasks) and Exhibit A.2 (Statement of Work – Optional Tasks).

Test Plan(s)

As used herein, the term "Test Plan(s)", whether singular or plural, shall mean Acceptance Test plans developed by Contractor pursuant to Task 7 (Test Plans) of Exhibit A.1 (Statement of Work – Required Tasks) for each of the Acceptance Tests, including Reliability Test, Integrated Functional Test and Stress Test.

Third Party Partners

As used herein, the term "Third Party Partners" shall mean the providers of Third Party Products specified in Section III (Third Party Products) of Attachment A.2 (System Software) and certified pursuant to Subtask Deliverable 4.3 (Third Party Software Certification) of Exhibit A.1 (Statement of Work – Required Tasks).

Third Party Products

As used herein, the term "Third Party Products" shall mean the software and related Documentation which may be acquired by County from Contractor in accordance with Contractor's specifications set forth in Section III (Third Party Products) of Attachment A.2 (System Software) and certified pursuant to Deliverable 4.3 (Third Party Software Certification) of Exhibit A.1 (Statement of Work – Required Tasks). Reference to Third Party Products may include one or more components or modules thereof or all Third Party Products in the System.

Third Party Software

As used herein, the term "Third Party Software" shall mean the software and related Documentation provided by County in accordance with Contractor's specifications set forth in Section II (Third Party Software) of Attachment A.2 (System Software) and certified pursuant to Deliverable 4.3 (Third Party Software Certification) of Exhibit A.1 (Statement of Work – Required Tasks), which shall meet some or all of the Functional Requirements. Reference to Third Party Software may include one or more components or modules thereof or all Third Party Software in the System.

Training

As used herein, the term "Training" shall mean System Software training provided by Contractor pursuant to this Agreement, including initial System Training and Additional Training that County may acquire in the future as part of Professional Services.

Training Session

As used herein, the term "Training Session" shall mean any session of System Training or Additional Training which will be or may be provided by Contractor in accordance with Subtask 10.1 (Provide System Training) of Exhibit A.1 (Statement of Work – Required Tasks) and Subtask 13.2 (Conduct Additional Training) of Exhibit A.2 (Statement of Work – Optional Tasks) respectively.

Update(s)

As used herein, the term "Update(s)", whether singular or plural, shall mean and include any additions to and/or replacements to Application Software, or any Components thereof, available or made subsequent to the Final Acceptance, and shall include all interim Application Software performance enhancement releases, new Version Releases, upgrades, interim updates, including fixes and patches, Deficiency corrections and modifications to Application Software, required for the System Software to remain in compliance with applicable Federal laws and regulations, provided by Contractor in accordance with Exhibit D (Maintenance and Support), with all Schedules thereto. Reference to Updates may include one or more components or modules thereof or all Updates in the System, other than those that include substantial new functionalities and are separately sold and marketed to all current customers of Contractor.

User(s); user(s)

As used herein, the terms "User(s)" and "user(s)", whether singular or plural, shall mean any persons authorized by County or applicable County Facility to access or use the System pursuant to this Agreement.

Version Release

As used herein, the term "Version Release" shall mean Contractor's Application Software major version upgrade including new software functionalities and features and/or system compatibilities.

Warranty Period

As used herein, the term "Warranty Period" shall have the meaning set forth in Paragraph 10.1.3 (Warranty Period).

2. ADMINISTRATION OF AGREEMENT - COUNTY

2.1 Administration of Agreement

All persons administering this Agreement on behalf of County and listed in this Paragraph 2 below (hereinafter "County's Key Personnel") are listed in Section I (County's Key Personnel) of Exhibit G (Administration of Agreement). Unless otherwise specified, reference to each of the persons listed in such Section I (County's Key Personnel) of Exhibit G (Administration of Agreement) shall also include his/her designee. County will notify Contractor in writing of any change in the names and/or addresses of the County administration personnel.

No member of County's Key Personnel is authorized to make any changes in any of the terms and conditions of this Agreement other than those specifically authorized under Paragraph 4 (Change Notices and Amendments).

2.2 <u>County's Key Personnel</u>

2.2.1 County's Project Director

County's Project Director will be responsible for ensuring that the objectives of this Agreement are met. County's Project Director will have the right at all times to inspect any and all tasks, subtasks, deliverables, goods including System Software, services or any other work provided by or on behalf of Contractor.

2.2.2 <u>County's Project Manager</u>

County's Project Manager will be responsible for ensuring that the technical standards and requirements of this Agreement are met. County's Project Manager will advise County's Project Director as to Contractor's performance with respect to requirements and technical standards. County's Project Manager will interface with Contractor's Project Manager on a regular basis.

2.2.3 County's Facility Project Manager

County's Facility Project Manager will be responsible for ensuring that the technical standards and requirements relating to the applicable County Facility are met. County's Facility Project Manager will advise County's Project Manager as to Contractor's performance with respect to such requirements and technical standards. County's Facility Project Manager will interface with Contractor's Facility Project Manager and/or Contractor's Project Manager on a regular basis.

2.3 County Personnel

All County personnel assigned to this Agreement shall be under the exclusive supervision of County. Contractor understands and agrees that all such County personnel are assigned only for the convenience of County. Contractor hereby represents that its price, Implementation Plan, and performance hereunder are based solely on the work of Contractor's personnel, except as otherwise expressly provided in this Agreement.

In the event Contractor is not satisfied with the level of assistance or cooperation of County personnel in the performance of Contractor's work under the Agreement, Contractor shall notify County's Project Manager for addressing Contractor's concerns, who, if necessary, will escalate the concerns to County's Project Director.

2.4 Approval of Work

All Tasks, Subtasks, Deliverables, goods, services and other work provided by Contractor under this Agreement must have the written approval of County's Project Director, which

ĆĒ.

shall not be unreasonably withheld. In no event shall County be liable or responsible for any payment prior to such written approval.

3. <u>ADMINISTRATION OF AGREEMENT - CONTRACTOR</u>

3.1 <u>Administration of Agreement</u>

All persons administering this Agreement on behalf of Contractor and listed in this Paragraph 3 below (hereinafter "Contractor's Key Personnel") are listed in Section II (Contractor's Key Personnel) of Exhibit G (Administration of Agreement). All staff employed by and/or behalf of Contractor, including the persons listed in such Section II (Contractor's Key Personnel) of Exhibit G (Administration of Agreement), shall be adults who are fully fluent in both spoken and written English. Contractor shall notify County in writing of any change in the names and/or addresses of the Contractor administration personnel.

3.2 Contractor's Key Personnel

3.2.1 Contractor's Project Director

Contractor's Project Director shall be responsible for Contractor's performance of all its tasks and subtasks and ensuring Contractor's compliance with this Agreement. Contractor's Project Director shall meet and confer with County's Project Director on a regular basis, at least monthly, to review project progress and discuss project coordination. Such meetings shall be conducted via teleconference or at a time and place agreed to by County's Project Director and Contractor's Project Director.

3.2.2 <u>Contractor's Project Manager</u>

Contractor's Project Manager shall be responsible for Contractor's day-to-day activities as related to this Agreement and for reporting to County in the manner set forth in Paragraph 3.4 (Reports by Contractor). Contractor's Project Manager shall interface with County's Project Manager on a regular basis and shall be available Business Days between the hours of 8:00 a.m. and 5:00 p.m., Pacific Time, for telephone contact and/or to meet with County personnel regarding the operation of this Agreement, as required by County's Project Director.

3.2.3 <u>Contractor's Facility Project Manager</u>

Contractor shall assign two (2) Contractor's Facility Project Managers who will be responsible for the tasks set forth in Task 3 (Project Management and Consultation) of Exhibit A.1 (Statement of Work – Required Tasks). Unless specified otherwise therein, Contractor's Facility Project Manager shall report to County in the manner set forth in Paragraph 3.4 (Reports by Contractor) and shall interface with County's Facility Project Manager and/or County's Project Manager on a regular basis and/or shall be available Business Days between the hours of 8:00 a.m. and 5:00 p.m., Pacific Time, for telephone contact and to meet with County personnel regarding the operation of this Agreement, as required by County's Project Director.

3.3 <u>Approval of Contractor's Staff</u>

- County has the absolute right to approve or disapprove each member or proposed member of Contractor's staff performing work under this Agreement, including, but not limited to, Contractor's Key Personnel, prior to and during their performance of any work hereunder, as well as so approving or disapproving any proposed deletions from or other changes in such staff. County's Project Director may require replacement of any member of Contractor's staff performing, or offering to perform, work hereunder, including, but not limited to, Contractor's Key Personnel, by providing in writing a reasonable request for such removal. Contractor shall provide County with a resume of each such proposed initial staff member, including, but not limited to, Contractor's Key Personnel, and proposed replacement and an opportunity to interview such person prior to his/her performance of any work hereunder. Contractor shall have thirty (30) days from the date of County's written request to replace such staff.
- In addition, Contractor shall use commercially reasonable best efforts to ensure continuity over time of the membership of the group constituting Contractor's staff, including, but not limited to, Contractor's Key Personnel. Contractor shall promptly fill any staff vacancy with personnel having qualifications at least equivalent to those of the staff member(s) being replaced.
- In fulfillment of its responsibilities under this Agreement, Contractor shall utilize, and permit utilization of, only staff fully trained and experienced, and as appropriate, licensed or certified in the technology, trades, tasks and subtasks required by this Agreement. Contractor shall supply sufficient staff to discharge its responsibilities hereunder in a timely and efficient manner.
- In the event Contractor should ever need to remove any staff from performing work under this Agreement, Contractor shall provide County with notice at least fifteen (15) days in advance, except in circumstances in which such notice is not possible, and shall work with County on a mutually agreeable transition plan so as to provide an acceptable replacement and ensure project continuity.

3.4 Reports by Contractor

In addition to any reports required elsewhere pursuant to this Agreement, in order to control expenditures and to ensure the reporting of all goods, services, and other work provided by Contractor, Contractor shall provide to County's Project Manager as frequently as requested by County's Project Manager, but in no event more frequently than weekly, written reports which shall include, at a minimum, the following information:

- 1. Period covered by the report;
- 2. Overview of the reporting period;
- 3. Tasks, subtasks, deliverables, goods, services and other work scheduled for the reporting period which were completed;
- 4. Tasks, subtasks, deliverables, goods, services and other work scheduled the reporting period which were not completed;
- 5. Tasks, subtasks, deliverables, goods, services and other work not scheduled for but

- completed in the reporting period.
- 6. Tasks, subtasks, deliverables, goods, services and other work scheduled to be completed in the next reporting period;
- 7. Issues resolved;
- 8. Issues to be resolved;
- 9. Summary of project status as of reporting date;
- 10. Updated milestone chart;
- 11. Any other information which County may from time-to-time require.

4. <u>CHANGE NOTICES AND AMENDMENTS</u>

- 4.1 No representative of either County or Contractor, including those named in this Agreement, is authorized to make any changes in any of the terms, obligations or conditions of this Agreement, except through the procedures set forth in this Paragraph 4.
- 4.2 County reserves the right to change any portion of the work required under this Agreement and to any other provisions of this Agreement. All such changes shall be accomplished only as provided in this Paragraph 4.
- For any change requested by County which does not affect the scope of work, term, payments, or any term or condition included in this Agreement, a written Change Notice shall be prepared and executed by County's Project Director and Contractor's Project Director.
- Except as otherwise provided in this Agreement, for any change requested by County which affects the scope of work, term, payments, or any term or condition included in this Agreement, a negotiated written Amendment to this Agreement shall be prepared and executed by each of County's Board of Supervisor's and Contractor's authorized representative.
- 4.5 County and Contractor have agreed upon a Implementation Plan for the work described in Exhibit A.1 (Statement of Work Required Tasks), attached as Exhibit C (Implementation Plan). Notwithstanding any other provision of this Paragraph 4, changes to the Implementation Plan shall be made only upon mutual agreement, in writing, by County's Project Director and Contractor's Project Director, provided that County's Project Director's and Contractor's Project Director's agreement to alter the Implementation Plan shall not prejudice either party's right to claim that such alterations constitute an Amendment to this Agreement that shall be governed by the terms of Paragraph 4.4 above.
- 4.6 Notwithstanding any other provision of this Paragraph 4, to the extent that extensions of time for Contractor performance do not impact either the scope of work or cost of this Agreement, County's Project Director, in his sole discretion, may grant Contractor extensions of time in writing for the work listed in Exhibit C (Implementation Plan), provided that such extensions shall not exceed a total of six (6) months per County Facility beyond Final Acceptance of such County Facility.
- 4.7 Notwithstanding any other provision of this Paragraph 4 or Paragraph 22 (Termination for Convenience), Director shall take all appropriate action to carry out any orders of County's

Board of Supervisors relating to this Agreement, and, for this purpose, Director is authorized to: (i) issue written notice(s) of partial or total termination of this Agreement pursuant to Paragraph 22 (Termination for Convenience) without further action by County's Board of Supervisors or County's Purchasing Agent and/or (ii) prepare and sign Amendments to this Agreement, executed by the Director and Contractor's authorized representative, which shall reduce the scope of work and the Contract Sum without further action by County's Board of Supervisors or County's Purchasing Agent.

- 4.7.1 Such notices of partial or total termination shall be authorized under the following conditions:
 - 1. Notices shall be in compliance with all applicable Federal, State, and County laws, rules, regulations, ordinances, guidelines, and directives.
 - 2. Director shall obtain the approval of County Counsel for any notice.
 - 3. Director shall file a copy of all notices with the Executive Office of County's Board of Supervisors, County's Purchasing Agent and County's Chief Administrative Office within fifteen (15) days after execution of each notice.
- 4.7.2 Such Amendments shall be authorized under the following conditions:
 - 1. Amendments shall be in compliance with all applicable Federal, State, and County laws, rules, regulations, ordinances, guidelines, and directives.
 - 2. County's Board of Supervisors has appropriated sufficient funds for purposes of such Amendments and this Agreement.
 - 3. Director shall obtain the approval of County Counsel for any Amendment.
 - 4. Director shall file a copy of all Amendments with the Executive Office of County's Board of Supervisors, County's Purchasing Agent and County's Chief Administrative Office within fifteen (15) days after execution of each Amendment.

4.8 Facsimile

Except for the parties' initial signatures to this Agreement, which must be provided in "original" form and not by facsimile, County and Contractor hereby agree to regard facsimile representations of original signatures of authorized officials of each party, when appearing in appropriate places on the Change Notices prepared pursuant to this Paragraph 4 and received via communications facilities, as legally sufficient evidence that such original signatures have been affixed to Change Notices to this Agreement, such that the parties need not follow up facsimile transmissions of such documents by subsequent (non-facsimile) transmissions of "original" versions of such documents.

5. WORK

5.1 Scope of Work

Contractor shall on a timely basis provide, complete, deliver and implement all tasks, subtasks, deliverables, goods, services and other work set forth in this Agreement set forth in Exhibit A.1 (Statement of Work – Required Tasks), including, but not limited to, Application Software (including Baseline Application and Updates), Implementation Services (including Application Software deployment, Data Conversions, System Environment assessment, Acceptance Tests and System Training) and Maintenance and Support (including Maintenance Services and Support Services). In addition, if agreed to by both parties in accordance with the terms hereof, Contractor shall provide on a timely basis those tasks, subtasks, deliverables, goods, services and other work set forth in Exhibit A.2 (Statement of Work – Optional Tasks), including Application Modifications, consisting of Customizations and Additional Software, and Professional Services, consisting of Consulting Services and Additional Training. Contractor shall perform all such tasks, subtasks, deliverables, goods, services and other work in accordance with Exhibit A (Statement of Work), with all Attachments thereto, at the applicable rates and prices specified in Exhibit B (Schedule of Payments), with all Schedules thereto.

5.2 System Software

Contractor shall provide Application Software modules and Components for the implementation and operation of the System, as provided in Exhibit A (Statement of Work) and identified in Section I (Baseline Application) of Attachment A.2 (System Software) and in Section I (Application Modifications) of Attachment A.5 (Post-Implementation Work) at the prices set forth in Exhibit B (Schedule of Payments), with all Schedules thereto.

County will, with assistance and advice from Contractor, install and implement Third Party Software in accordance with Contractor's requirements and specifications for such Third Party Software identified in Section II (Third Party Software) of Attachment A.2 (System Software).

Contractor and/or County will amend such Attachment A.2 (System Software) in order to: (i) add new System Software modules and/or Components; (ii) revise the System Software Components, including Application Modifications and Updates, and (iii) update the System Software and module version numbers, provided, however, no System Software module or Component may be removed from or added to Attachment A.2 (System Software) except in accordance with this Agreement and upon approval of County's Project Director. All such changes to Attachment A.2 (System Software) shall be provided in accordance with Paragraph 4 (Change Notices and Amendments).

5.3 System Environment

Contractor acknowledges that the System shall be implemented and shall operate on the System Hardware identified in Section II.A (System Hardware) of Attachment A.3 (System Environment) and in the Facility Network environment described in Section II.B (Facility Network) of Attachment A.3 (System Environment). Contractor shall analyze County's System Environment at each County Facility, including the Existing Hardware, and either approve the System Environment or recommend changes, including the Additional Hardware which shall become part of System Hardware identified in Section II.A (System Hardware)

of Attachment A.3 (System Environment), all pursuant to Subtask 4.2 (Analyze System Environment and Recommend Changes) of Exhibit A.1 (Statement of Work – Required Tasks) as adequate for the successful implementation and operation of the System for the purpose of this Agreement, including Schedule D.2 (System Performance Requirements) and Paragraph 10.2 (System Performance Warranty).

5.4 Implementation Services

Contractor shall perform Implementation Services, which shall include Application Software deployment, System Environment assessment, Data Conversions, Acceptance Tests, System Training and other services required for successful implementation of ORSOS in accordance with Exhibit A.1 (Statement of Work – Required Tasks), with all Attachments thereto, pursuant to the Implementation Plan.

5.5 <u>Maintenance and Support</u>

5.5.1 General

Contractor shall provide to County maintenance and support services, including Maintenance Services and Support Services, with respect to the System as provided in, and in accordance with, Exhibit D (Maintenance and Support), Task 11 (Maintenance and Support) of Exhibit A.1 (Statement of Work – Required Tasks) and this Agreement (hereinafter "Maintenance and Support"). Maintenance and Support shall commence upon the Effective Date, continue throughout the Warranty Period and, if elected and paid for by County in accordance with Section III (Maintenance and Support) of Exhibit B (Schedule of Payments), throughout the term of this Agreement. Maintenance and Support shall be provided by Contractor at no cost to County through the end of the Warranty Period as defined in Paragraph 10.1.3 (Warranty Period), and at the rates set forth in such Section III (Maintenance and Support) of Exhibit B (Schedule of Payments) thereafter. Updates delivered to County and implemented by Contractor shall be deemed part of the Application Software for all purposes hereunder and shall be subject to the System Software ownership provisions set forth in Paragraph 11.1.2 (System Software) and the terms of the License granted pursuant to Paragraph 11.2 (License).

5.5.2 <u>Downtime Credits</u>

During all periods when County pays for Maintenance and Support, in the event Contractor fails to resolve any Deficiency of Severity Level I or II known to, or reproducible by, Contractor, and County is not satisfied with Contractor's progress towards resolution of such Deficiency, then County may assess against Maintenance Fees owed to Contractor credits (hereinafter "Downtime Credit(s)") according to the applicable Deficiency Severity Level, as provided in Sections V (Downtime Credits) of Exhibit D (Maintenance and Support) and Schedule D.3 (Correction of Deficiencies). The Deficiency Severity Level shall be designated by County's Project Manager acting reasonably, as provided in Schedule D.3 (Correction of Deficiencies).

5.6 <u>Post-Implementation Work</u>

Upon County's request for, and mutual approval of, pursuant to the terms of this Agreement, Contractor shall provide Post-Implementation Work, including Application Modifications, consisting of Additional Software and/or Customizations, and Professional Services, consisting of Consulting Services and/or Additional Training, in accordance with this Agreement, including Exhibit A.2 (Statement of Work – Optional Tasks) and the pricing terms set forth in Exhibit B (Schedule of Payments), and the applicable Scope of Work.

5.6.1 Application Modifications

All mutually agreed upon Application Modifications, including Customizations and Additional Software, shall be provided in accordance with Task 12 (Application Modifications) of Exhibit A.2 (Statement of Work – Optional Tasks) and at the rates and fees set forth in Section V (Application Modifications) of Exhibit B (Schedule of Payments). Upon completion by Contractor, and approval by County in accordance with the terms of this Agreement, of such Application Modifications, Section I (Application Modifications) of Attachment A.5 (Post-Implementation Work) shall be updated to add such completed and approved Application Modifications via a Change Notice or by an Amendment, in each case, in accordance with Paragraph 4 (Change Notices and Amendments). Such Application Modifications shall not increase the Maintenance Fees for Maintenance and Support of the Application Software under this Agreement.

5.6.2 Professional Services

All mutually agreed upon Professional Services, including Consulting Services and Additional Training, shall be provided in accordance with Task 13 (Professional Services) of Exhibit A.2 (Statement of Work – Optional Tasks) and at the rates and fees set forth in Section VI (Professional Services) of Exhibit B (Schedule of Payments). Upon completion by Contractor, and approval by County in accordance with the terms of this Agreement, of such Professional Services, Section II.A (Consulting Services) or II.B (Additional Training), as applicable, of Attachment A.5 (Post-Implementation Work) shall be updated to add such completed and approved Professional Services via a Change Notice or by an Amendment, in each case, in accordance with Paragraph 4 (Change Notices and Amendments). Such Professional Services shall not increase the Maintenance Fees for Maintenance and Support of the Application Software under this Agreement.

5.7 Standard of Services

Contractor's services and other work required by this Agreement shall conform to high professional standards as they exist in Contractor's profession or field of practice. If Contractor's services and other work provided under this Agreement fail to conform to such high professional standards, upon notice from County specifying the failure of performance, Contractor shall, at Contractor's sole expense, re-perform such services or other work. Contractor shall, at its own expense, correct any data in which (and to the extent that) errors have been caused by Contractor or malfunctions of Applications Software or by any other tools introduced by Contractor into the System for the purpose of performing services or other work under this Agreement or otherwise.

5.8 Unapproved Work

If Contractor provides any tasks, subtasks, deliverables, goods, services or other work to County other than those specified in this Agreement, or if Contractor provides such items requiring County's prior written approval without first having obtained such written approval, the same shall be deemed to be a gratuitous effort on the part of Contractor and Contractor shall have no claim whatsoever against County therefor.

5.9 Right to Reject

County reserves the right to reject any tasks, subtasks, deliverables, goods, services, and/or other work not approved by County pursuant to Paragraph 2.4 (Approval of Work) or other applicable provisions of this Agreement.

6. <u>IMPLEMENTATION PLAN</u>; MILESTONES

6.1 <u>Implementation Plan</u>

Contractor shall implement the System in accordance with the Implementation Plan set forth in Exhibit C (Implementation Plan) following a detailed work plan identified in the Implementation Project Plan developed by Contractor pursuant to Subtask 1.3 (Develop and Present Implementation Project Plan) of Exhibit A.1 (Statement of Work – Required Tasks). The Implementation Plan shall, at a minimum, include the following elements:

- 1. Deliverable Number;
- 2. Description;
- 3. Delivery Date;
- 4. Associated Milestone;
- 5. Any other elements mutually agreed upon by County and Contractor.

6.2 Milestones

- 6.2.1 The work to be carried out hereunder for each County Facility shall be completed in five (5)

 Milestones defined as follows:
 - 1. <u>Milestone 1</u>: Implementation Project Plan, as described in Subtask 1.3 (Develop Implementation Project Plan) of Exhibit A.1 (Statement of Work Required Tasks).
 - 2. <u>Milestone 2</u>: Data Conversion and System Migration at the Existing Facilities, as described in Subtask 6.2 (Perform Conversion and Migration) of Exhibit A.1 (Statement of Work Required Tasks).
 - 3. <u>Milestone 3</u>: Acceptance Testing, as described in Subtask 8.3 (Conduct Stress Test) of Exhibit A.1 (Statement of Work Required Tasks).
 - 4. <u>Milestone 4</u>: System Final Acceptance, as described in Subtask 9.1 (Maintain Non-Deficient System Production Use) of Exhibit A.1 (Statement of Work Required Tasks).

- 5. <u>Milestone 5</u>: System Training and Documentation, as described in Subtask 10.2 (Provide User Documentation) of Exhibit A.1 (Statement of Work Required Tasks).
- Exhibit C (Implementation Plan) sets forth dates for completion of each Milestone. A 6.2.2 Milestone shall be deemed completed for purposes of this Paragraph 6.2 on the earliest date that all of the tasks, subtasks, deliverables, goods, services and other work required for completion of such Milestone are completed and delivered to County, provided that all of such tasks, subtasks, deliverables, goods, services and other work required for completion of such Milestone are thereafter approved in writing by County pursuant to Paragraph 2.4 (Approval of Work) without prior rejection by County or significant delay in County's approval thereof, which delay is the result of Contractor's failure to deliver such tasks, subtasks, deliverables, goods, services and other work in accordance with the terms hereof. The determination of whether each Milestone has been so completed and so approved, and of the date upon which such Milestone was completed, shall be made by County's Project Manager as soon as practicable in accordance with Paragraph 2.4 (Approval of Work) after County is informed by Contractor that such Milestone has been completed and is given all the necessary information, data and documentation to verify such completion. A failure by Contractor to complete any Milestone by the applicable date set forth above (as such date may be modified pursuant to Paragraph 4 (Change Notices and Amendments), including, without limitation, following delivery of a notice under Paragraph 75 (Notice of Delays)) shall be subject to the provisions of Paragraph 8.2 (Credits to County), Paragraph 8.3 (Termination) and Paragraph 21 (Termination for Default).

7. <u>TERM</u>

7.1 Initial Term

The term of this Agreement shall commence upon the Effective Date and shall continue through and including August 31, 2011, unless sooner terminated or extended, in whole or in part, as provided in this Agreement (the "Initial Term").

7.2 Extended Term

At the end of the Initial Term, County may, at its sole option, extend this Agreement for up to three (3) additional consecutive one (1) year terms ("Extended Term"); provided that if County elects not to exercise its option to extend at the end of the Initial Term, or the Extended Term, the remaining option(s) shall automatically lapse. County shall be deemed to have exercised its extension option(s) automatically, without further act, unless, no later than thirty (30) days prior to the expiration of the Initial Term or the Extended Term, County notifies Contractor in writing that it elects not to extend the Agreement pursuant to this Paragraph 7.

7.3 Definition of Term

As used throughout this Agreement, the word "term" shall include the Initial Term and the Extended Term, to the extent County exercises any of its options pursuant to this Paragraph

7.

8. CONTRACT SUM

8.1 Maximum Contract Sum

The Contract Sum under this Agreement shall be the total monetary amount payable by County to Contractor for supplying all the tasks, subtasks, deliverables, goods, services and other work requested and specified under this Agreement. All work completed by Contractor must be approved in writing by County in accordance with Paragraph 2.4 (Approval of Work). If County does not approve work in writing, no payment shall be due Contractor for that work. The Contract Sum, including all applicable taxes, authorized by County hereunder shall not exceed Four Million Eight Hundred and One Thousand Two Hundred Fifty Two Dollars (\$4,801,252), unless the Contract Sum is modified pursuant to a duly approved Amendment to this Agreement by County's Board of Supervisors and Contractor's authorized representative pursuant to Paragraph 4 (Change Notices and Amendments). The Contract Sum under this Agreement shall cover the authorized payments for all required work including Application Software, Implementation Services and Maintenance and Support services and optional Post-Implementation Work.

8.2 Credits to County

For each and every occasion upon which a Deliverable marked on Exhibit C (Implementation Plan) as a Milestone and/or as "KEY" (hereinafter "Key Deliverable") has not been completed by Contractor within fifteen (15) days after the date scheduled for completion thereof as set forth in Exhibit C (Implementation Plan) (hereinafter for each Key Deliverable "Due Date") as a result of delays caused solely by acts or omissions of Contractor or not otherwise qualifying as a force majeure event under Paragraph 32.1, and unless otherwise approved in writing by County's Project Director, County shall be entitled to receive a credit against any or all amounts due to Contractor, under this Agreement or otherwise: (i) in the total amount of Two Hundred Eighty-Five Dollars (\$285) for each day after the Due Date that the Key Deliverable is not completed. All of the foregoing credits shall apply separately, and cumulatively, to each Key Deliverable in the Implementation Plan. A determination whether County shall assess credits due to it pursuant to this Paragraph 8.2 shall be made by County's Project Director in his/her reasonable discretion and shall be subject to the Dispute Resolution Procedure.

A Deliverable shall be deemed completed for purposes of this Paragraph 8.2 and Paragraph 8.3 (Termination) on the earliest date that all of the tasks, subtasks, deliverables, goods, services and other work required for the completion of such Deliverable are completed and delivered to County, provided that all of such tasks, subtasks, deliverables, goods, services and other work required for the completion of such Deliverable are thereafter approved in writing by County pursuant to Paragraph 2.4 (Approval of Work) without prior rejection by County or significant delay in County's approval thereof, which delay is the result of Contractor's failure to deliver such tasks, subtasks, deliverables, goods, services and other work in accordance with the terms hereof. For purposes of this Paragraph 8.2 and Paragraph 8.3 (Termination), the determination of whether a Deliverable has been so completed and is so approved, and of the date upon which such Deliverable was completed, shall be made by

County's Project Director as soon as practicable after County is informed by Contractor that such Deliverable has been completed and is given all the necessary information, data and documentation to verify such completion.

Notwithstanding the foregoing, in the event Contractor achieves Final Acceptance by or on the scheduled date set forth in the Implementation Plan, County shall reverse the credits withheld under this Paragraph 8.2 for the delays leading to such Final Acceptance. County's failure to, or election not to, assess credits for any Deliverable delay shall not waive its right to access credits for any future Deliverable delays.

8.3 Termination

In addition to the foregoing provisions of Paragraph 8.2 (Credits to County), if any Key Deliverable is not completed within thirty (30) days after the applicable Due Date, and thereafter approved in writing by County pursuant to Paragraph 2.4 (Approval of Work), other than as a result of delays caused by acts or omissions of County or for which Contractor is not responsible pursuant to Paragraph 8.2 (Credits to County) as determined by Director in his/her reasonable judgment, and unless Director and Contractor's Project Director have otherwise agreed, in writing, prior to such date scheduled for completion, then County may, upon notice to Contractor, terminate this Agreement for default in accordance with Paragraph 21 (Termination for Default) or for convenience in accordance with Paragraph 22 (Termination for Convenience), as determined in the sole discretion of County, subject to the cure provisions set forth in Paragraph 21.1 (Contractor Default).

8.4 <u>Maintenance and Support</u>

Contractor shall, during the term of this Agreement, provide to County Maintenance and Support services in accordance with Paragraph 5.5 (Maintenance and Support) and Exhibit D (Maintenance and Support), with all Schedules thereto, in exchange for the Maintenance Fees. Notwithstanding the foregoing, the Maintenance and Support services shall be provided at no cost to County through the end of the Warranty Period.

8.5 Application Modifications

Upon the written request of County's Project Director made at any time and from time to time during the term of this Agreement and mutual agreement by both parties, Contractor shall provide to County (i) Application Modifications, consisting of Customizations, as specified in Subtask 12.1 (Develop Customizations) of Exhibit A.2 (Statement of Work – Optional Tasks) at the Fixed Hourly Rates specified in Section V.A (Customizations) of Exhibit B (Schedule of Payments) and (ii) Additional Software, as specified in Subtask 12.2 (Provide Additional Software) of Exhibit A.2 (Statement of Work – Optional Tasks) in accordance with the pricing terms specified in Section V.B (Additional Software) of Exhibit B (Schedule of Payments).

Application Modifications shall be provided in the manner set forth in Task 12 (Application Modifications) of Exhibit A.2 (Statement of Work – Optional Tasks) and shall only include Application Software enhancements and modifications relating to requirements not reflected upon the Effective Date in the Functional Requirements, as determined by County's Project

Director.

Upon County's request for Application Modifications, Contractor shall provide to County, within ten (10) Business Days of County's request therefor, either a statement that a requested Application Modification is not technologically or economically feasible or consistent with Contractor's development plans for the Application Software, or a written quotation of a Maximum Fixed Price for such Application Modifications, including, without limitation, the recommended Contractor's staff levels, together with the other information and documentation specified in Task 12 (Application Modifications) and the applicable of Subtasks 12.1 (Develop Customizations) and 12.2 (Provide Additional Software), in each case, of Exhibit A.2 (Statement of Work – Optional Tasks). Contractor's quotation shall be valid for ninety (90) days from submission.

Contractor's rates for Application Modifications shall not increase above (i) the Fixed Hourly Rates identified in Section V.A (Customizations) of Exhibit B (Schedule of Payments) and (ii) the pricing terms set forth in Section V.B (Additional Software) of Exhibit B (Schedule of Payments), in each case, during the term of this Agreement.

Absent an Amendment in accordance with Paragraph 4 (Change Notices and Amendments), the Pool Dollars are the aggregate amount available during the term of this Agreement for Application Modifications and Professional Services.

8.6 Professional Services

Upon the written request of County's Project Director made at any time and from time to time during the term of this Agreement and mutual agreement by both parties, Contractor shall provide to County Professional Services, consisting of (i) Consulting Services, as specified in Subtask 13.1 (Provide Consulting Services) of Exhibit A.2 (Statement of Work – Optional Tasks) at the Fixed Hourly Rates specified in Section VI.A (Consulting Services) of Exhibit B (Schedule of Payments) and (ii) Additional Training, as specified in Subtask 13.2 (Conduct Additional Software) of Exhibit A.2 (Statement of Work – Optional Tasks) in accordance with the Per-Session Rate and any other Training pricing terms specified in Section VI.B (Additional Training) of Exhibit B (Schedule of Payments).

Professional Services shall be provided in the manner set forth in Task 13 (Professional Services) of Exhibit A.2 (Statement of Work – Optional Tasks) and shall only include Consulting Services and Additional Training outside of Contractor's obligations prior to Final Acceptance, as determined by County's Project Director.

Upon County's request for Professional Services, Contractor shall provide to County, within ten (10) Business Days of County's request therefor, a written quotation of a Maximum Fixed Price for such Professional Services, including, without limitation, the recommended Contractor's staff levels, together with the other information and documentation specified in Task 13 (Professional Services) and the applicable of Subtasks 13.1 (Provide Consulting Services) and 13.2 (Conduct Additional Training), in each case, of Exhibit A.2 (Statement of Work – Optional Tasks). Contractor's quotation shall be valid for ninety (90) days from submission.

Contractor's rates for Professional Services shall not increase above (i) the Fixed Hourly Rates identified in Section VI.A (Consulting Services) of Exhibit B (Schedule of Payments) and (ii) the pricing terms, including Per-Session Rate, set forth in Section VI.B (Additional Training) of Exhibit B (Schedule of Payments), in each case, during the term of this Agreement.

Absent an Amendment in accordance with Paragraph 4 (Change Notices and Amendments), the Pool Dollars are the aggregate amount available during the term of this Agreement for Application Modifications and Professional Services.

8.7 <u>County's Obligation for Future Fiscal Years</u>

County's obligation may be limited if it is payable only and solely from funds appropriated for the purpose of this Agreement. Notwithstanding any other provision of this Agreement, County shall not be obligated for Contractor's performance hereunder or by any provision of this Agreement during any of County's future fiscal years unless and until County's Board of Supervisors appropriates funds for this Agreement in County's budget for each such future fiscal year. In the event that funds are not appropriated for this Agreement, then County shall, at its sole discretion, either (i) terminate this Agreement as of June 30 of the last fiscal year for which funds were appropriated or (ii) reduce the work provided hereunder in accordance with the funds appropriated. County will notify Contractor in writing of any such non-appropriation of funds at its election at the earliest possible date. Except as otherwise agreed to in writing by County and Contractor, any such act shall be subject to and be deemed a termination for convenience by County, subject to Paragraph 22 (Termination for Convenience).

9. INVOICES AND PAYMENTS

9.1 Invoices

Contractor shall invoice County (1) for Maintenance Fees, monthly in arrears, (2) for Contractor's Facility Project Managers, quarterly in advance, and (3) for all other tasks, subtasks, deliverables, goods, services and other work, upon Contractor's completion and County's written approval thereof, in the case of (1), (2) and (3), in accordance with this Agreement, Exhibits A (Statement of Work), B (Schedule of Payments), C (Implementation Plan) and D (Maintenance and Support), with all Attachments and Schedules thereto, and any Change Notices or Amendments, as applicable, and as otherwise provided for in this Agreement.

9.1.1 <u>Submission of Invoices</u>

Contractor's invoice shall include the charges owed to Contractor by County under the terms of this Agreement as provided in Exhibit B (Schedule of Payments). All invoices and supporting documents under this Agreement shall be submitted to the person designated in Section I (County's Key Personnel) of Exhibit G (Administration of Agreement) as County's Project Manager at the address specified therein.

9.1.2 Invoice Details

Each invoice submitted by Contractor shall indicate, at a minimum:

- 1. The tasks, subtasks, deliverables, goods, services or other work for which payment is claimed, as described in Exhibit A.1 (Statement of Work Required Tasks) or Exhibit A.2 (Statement of Work Optional Tasks) in accordance with the pricing terms set forth in Exhibit B (Schedule of Payments).
- 2. The date of written approval of the tasks, subtasks, deliverables, goods, services, or other work by County's Project Director.
- 3. Indication of any applicable withhold or holdback amounts for payments claimed or reversals thereof.
- 4. Indication of any applicable credits due County under the terms of this Agreement or reversals thereof.

9.1.3 Approval of Invoices

All invoices submitted by Contractor to County for payment shall have County's written approval as provided in this Paragraph 9.1, which approval shall not be unreasonably withheld. In no event shall County be liable or responsible for any payment prior to such written approval.

9.1.4 <u>Invoice Discrepancies</u>

County's Project Manager will review each invoice for any discrepancies and will, within thirty (30) days of receipt thereof, notify Contractor in writing of any discrepancies found upon such review and submit a list of disputed charges. Contractor shall review the disputed charges and send a written explanation detailing the basis for the charges within thirty (30) days of receipt of County's notice of discrepancies and disputed charges. If County's Project Manager does not receive a written explanation for the charges within such thirty (30) day period, Contractor shall be deemed to have waived its right to justify the original invoice amount, and County, acting reasonably, shall determine the amount County believes is due, if any, to Contractor and pay such amount within thirty (30) days of receipt of invoice in satisfaction of the disputed invoice.

All County correspondence relating to invoice discrepancies shall be sent directly by email, followed by hard copy, directly to:

PST Products, LLC Director of Billing 1145 Sanctuary Parkway, Suite 200 Alpharetta, Georgia 30004

9.2 <u>Delivery of System Software; Transportation Charges</u>

It is in the intent of the parties that all System Software and Documentation provided by

Contractor under this Agreement, including Baseline Application, Updates, Data Conversions, Application Modifications and any items or materials provided under Maintenance and Support services, shall be delivered (i) solely in electronic format (e.g., via electronic mail or internet download), or (ii) personally by Contractor staff who may load the System Software and Documentation onto County's hardware but who will retain possession of all originals and copies of such tangible media (e.g., CD-ROM, magnetic tape, printed manuals) used to deliver the System Software and Documentation to County.

Any System Software and Documentation provided or delivered by Contractor to County in a tangible format shall be F.O.B. Destination. The Contract Sum shown in Paragraph 8.1 (Maximum Contract Sum) includes amounts necessary for County to reimburse Contractor for all transportation and related insurance charges, if any, on System Software Components and Documentation procured by County from Contractor pursuant to this Agreement. All transportation and related insurance charges, if any, shall be paid directly by Contractor to the applicable carrier. Contractor shall be solely liable and responsible for, and shall indemnify, defend, and hold harmless County from, any and all such transportation and related insurance charges.

9.3 Sales/Use Tax

The Contract Sum shown in Paragraph 8.1 (Maximum Contract Sum) shall be deemed to include all amounts necessary for County to reimburse Contractor for all applicable California and other state and local sales/use taxes on all System Software Components procured by County from Contractor pursuant to or otherwise due as a result of this Agreement, including, but not limited to, Baseline Application, Updates, Third Party Products, Application Modifications and any other taxable System Software Components. All California sales/use taxes shall be paid directly by Contractor to the State or other taxing authority. Contractor shall be solely liable and responsible for, and shall indemnify, defend. and hold harmless County from, any and all such California and other state and local sales/use taxes. Further, Contractor shall be solely liable and responsible for, and shall indemnify, defend, and hold harmless County from, all applicable California and other state and local sales/use tax on all other items provided by Contractor pursuant to this Agreement (including, without limitation, where applicable, Application Modifications, Baseline Customizations, Interfaces, Training, Maintenance and Support, System implementation. etc.) and shall pay such tax directly to the State or other taxing authority. In addition, Contractor shall be solely responsible for all taxes based on Contractor's income or gross revenue, or personal property taxes levied or assessed on Contractor's personal property to which County does not hold title.

9.4 Payments

County will pay all invoice amounts to Contractor within thirty (30) days of receipt of invoices that have not been disputed in accordance with Paragraph 9.1.4 (Invoice Discrepancies) above and provided that Contractor is not in default for the work covered by this invoice or any invoice covering the work depended on such work in default. County's failure within the thirty (30) days, however, shall not entitle Contractor to impose an interest on any late payment.

9.5 <u>County's Right to Withhold Payment</u>

Notwithstanding any other provision of this Agreement, and in addition to any rights of County given by law or provided in this Agreement, County <u>may</u> upon written notice to Contractor withhold payment for any (i) Deliverable while Contractor, with no fault of County, is in default hereunder, or (ii) with respect to such Deliverable, at any time that Contractor has not provided a County-approved Deliverable which under the approved Implementation Project Plan pursuant to Subtask 1.3 (Develop Implementation Project Plan) of Exhibit A.1 (Statement of Work – Required Tasks) is identified as dependent on and is scheduled to be delivered prior to or concurrently with the Deliverable for which payment would otherwise be due and is withheld.

9.6 Holdbacks

County will hold back ten percent (10%) of the amount of each invoice submitted by Contractor under this Agreement for the work provided under Exhibit A.1 (Statement of Work – Required Tasks) and approved by County pursuant to Paragraph 9.1 (Invoices). The cumulative amount of such holdbacks shall be due and payable to Contractor upon Final Acceptance, subject to adjustment for any amounts arising under this Agreement owed to County by Contractor, including, but not limited to, any amounts arising from Paragraphs 9.1.4 (Invoice Discrepancies), 9.5 (County's Right to Withhold Payment), 8.2 (Credits to County) and any partial termination of any Task, Subtask or Deliverable set forth in the Statement of Work as provided herein.

10. WARRANTIES AND CORRECTION OF DEFICIENCIES

10.1 System Software Warranty

The Application Software provided by Contractor under this Agreement shall be subject to the warranties and correction of Deficiencies as set forth in this Paragraph 10.1.

10.1.1 System Go-Live

The System shall Go-Live at a County Facility when the Application Software provided by Contractor under this Agreement is free from any and all known Severity Level I and Severity Level II Deficiencies and performs in accordance with Functional Requirements set forth in Attachment A.1 (Functional Requirements) and the Specifications, as required for successful completion of Subtask 8.3 (Conduct Stress Test) of Exhibit A.1 (Statement of Work – Required Tasks). The Deficiencies reported during the period extending from the Effective Date until Go-Live shall be corrected in accordance with Exhibit D (Maintenance and Support), including Schedule D.3 (Correction of Deficiencies), at no charge to County.

10.1.2 Final Acceptance

The System shall achieve Final Acceptance at a County Facility after Contractor has maintained the System in Production Use for thirty (30) consecutive days without any Severity Level I or II Deficiencies in accordance with Subtask 9.1 (Maintain Non-Deficient System Production Use) of Exhibit A.1 (Statement of Work – Required Tasks). The

Î.F

Deficiencies reported during this period shall be corrected in accordance with Exhibit D (Maintenance and Support), including Schedule D.3 (Correction of Deficiencies), at no charge to County.

10.1.3 Warranty Period

Contractor hereby warrants to County that the Application Software at each County Facility shall be free from any and all Severity Level I and II Deficiencies for six (6) months following Final Acceptance at the that County Facility (hereinafter "Warranty Period"). All Deficiencies reported during the Warranty Period shall be corrected in accordance with Exhibit D (Maintenance and Support), including Schedule D.3 (Correction of Deficiencies), at no cost to County. Should any such Deficiencies persist at the end of the six (6) month period, the Warranty Period shall be extended until all of the Deficiencies are corrected.

Without limiting the foregoing, during the Warranty Period, Contractor shall, upon notification from County pursuant to Exhibit D (Maintenance and Support) including Schedule D.3 (Correction of Deficiencies) thereto, correct any and all Severity Level I and II Deficiencies in the Application Software, including, but not limited to, supplying County with corrective or replacement codes and/or programs and making such additions, modifications or adjustments to the Application Software as may be necessary to keep it operating in conformance with the Specifications, including Functional Requirements and Performance Requirements.

10.1.4 <u>Maintenance and Support</u>

Provided that County is current on the Maintenance Fees, Contractor shall correct the Deficiencies reported after the end of the Warranty Period in accordance with Exhibit D (Maintenance and Support), including Schedule D.3 (Correction of Deficiencies).

10.2 <u>System Performance Warranty</u>

Upon completion of the Stress Test described in Subtask 8.3 (Conduct Stress Test) of Exhibitary A.1 (Statement of Work – Required Tasks), Contractor and County shall measure and agree on minimum System Performance Requirements, including Maximum Response Times, based on the System Software performance in the System Environment, and update Schedule D.2 (System Performance Requirements) accordingly. The values for System Performance Requirements set forth in such Schedule D.2 (System Performance Requirements) shall serve as the threshold for Contractor's warranties under this Agreement regarding System performance, including Response Times.

Contractor represents, warrants and covenants that at the time of System Environment certification provided by Contractor under Deliverable 4.2 (System Environment Certification) of Exhibit A.1 (Statement of Work – Required Tasks) and for a period of eighteen (18) months thereafter, the System, when operated in accordance with such System Environment certification and provided that System Environment and Third Party Software Components function in accordance with the applicable manufacturer specifications, shall provide sufficient computing capacity to support the System Performance Requirements, including Response Times, set forth in Schedule D.2 (System Performance Requirements) and Exhibit D (Maintenance and Support).

10.3 <u>System Performance Deficiencies</u>

In the event the System fails to meet the System Performance Requirements, including Response Times, while County is compliant with the System Environment certification provided by Contractor under Deliverable 4.2 (System Environment Certification) of Exhibit A.1 (Statement of Work – Required Tasks) and Contractor recommends upgrade, repair or replacement of any of the System Components, including operating software, hardware and/or networking components, but other than Application Software, to remedy the Deficiency, County will perform such System alteration according to Contractor's recommendations, provided that such System alteration shall be: (i) solely at Contractor's expense during the period extending from Go-Live and continuing until eighteen (18) months following Final Acceptance (hereinafter "System Performance Warranty Period") if the failure to meet the System Performance Requirements is due solely to Contractor or to changes made to the Application Software by Contractor after Final Acceptance and provided the Application Software is then under Maintenance and Support; and (ii) at County's cost during the term of the Agreement following the System Performance Warranty Period, provided that System Environment and Third Party Software Components function in accordance with the applicable manufacturer specifications. In any event, if Contractor's recommended System alteration does not remedy the System performance Deficiency, including Response Times, Contractor shall reimburse County for any and all amounts expended by County based on Contractor's recommended System alteration to remedy such Deficiency. If the Deficiency persists, the Severity Level of such Deficiency may be escalated in accordance with Schedule D.3 (Correction of Deficiencies).

10.4 Third Party Software Warranty

Contractor hereby represents and warrants that (i) the Third Party Software, including version and/or release dates and numbers, listed in Section II (Third Party Software) of Attachment A.2 (System Software) and updated by Contractor as needed during the term of the Agreement, meets the Functional Requirements and is compatible with the Application Software and (ii) that none of the System Software other than the Third Party Software meeting the specifications set forth in Section II (Third Party Software) of Attachment A.2 (System Software) requires execution by County of software licenses with third parties.

Contractor also represents and warrants that it has not modified and shall not modify, nor does Contractor have any need to modify, Third Party Software in order for the System to fully perform in accordance with all requirements of this Agreement.

Contractor shall maintain compatibility with Third Party Software as part of Maintenance and Support services in accordance with Section IV (Third Party Software) of Exhibit D (Maintenance and Support).

10.5 General Warranties

Contractor represents, warrants, covenants and agrees that throughout the term of this Agreement:

- A. Contractor shall strictly comply with the descriptions and representations set forth in this Agreement, including Exhibit A (Statement of Work).
- B. All tasks, subtasks, Deliverables, goods, services and other work shall be performed in a timely and professional manner by qualified personnel.
- C. All tasks, subtasks, Deliverables, goods, services, and other work shall be completed in accordance with this Agreement and Deliverable documentation.
- D. The System Components shall interface and be compatible with each other; and the System Components, when taken together, shall be capable of delivering all of the functionality as set forth in this Agreement (including, without limitation, the Recitals, Attachment A.1 (Functional Requirements) and the Specifications), provided that System Environment and Third Party Software Components function in accordance with the applicable manufacturer specifications.
- E. Contractor shall not cause any unplanned interruption of the operations of, or accessibility to the System or any System Component through any device, method or means including, without limitation, the use of any "virus", "lockup", "time bomb", or "key lock", "worm", "back door" or "Trojan Horse" device or program, or any disabling code, which has the potential or capability of compromising the security of County's confidential or proprietary information or of causing any unplanned interruption of the operations of, or accessibility of the System or any System Component to County or any User or which could alter, destroy, or inhibit the use of the System, any System Component, or the data contained therein (collectively referred to for purposes of this Paragraph 10.5(E) as "Disabling Device(s)"), which could block access to or prevent the use of the System or any System Component by County or Users. Contractor represents, warrants and agrees that it has not purposely placed, nor is it aware of, any Disabling Device on any System Component provided to County under this Agreement, nor shall Contractor knowingly permit any subsequently delivered System Component to contain any Disabling Device, other than lock-offs contained on the delivered media which only prevents use of software contained on such media other than System Components.

In addition, Contractor shall prevent viruses from being incorporated or introduced into any of the Application Software or updates or enhancements thereto prior to delivery thereof to County, and shall utilize reasonable commercial efforts, including using updo-date commercially available virus protection software, to prevent any viruses from being incorporated or introduced in the process of Contractor's loading of System Software, or updates and enhancements thereto, or being introduced by Contractor or any of its subcontractors in the process of Contractor's performance of on-line support. The foregoing notwithstanding, County acknowledges that it is not responsible for the security of its HIS, including but not limited to the System Software, from introduction of any virus, disruptive or destructive devices by any personnel other than those of Contractor.

F. Subject to the provisions of Exhibit D (Maintenance and Support), while County is under Maintenance and Support, Contractor shall support all Application Software

Components in their respective then-existing architecture and for their respective then-existing Version Releases and the most recent prior Version Release for the term of this Agreement.

10.6 Breach of Warranty Obligations

Failure by Contractor to timely perform its obligations set forth in this Paragraph 10 shall constitute a material breach, upon which, in addition to County's other rights and remedies set forth herein, County may, after written notice to Contractor and provision of a reasonable cure period, terminate this Agreement in accordance with Paragraph 21 (Termination for Default).

10.7 <u>Continuous Product Support</u>

In the event Contractor assigns this Agreement (which requires the consent of County, which consent shall not be unreasonably withheld), is acquired, becomes otherwise controlled by another individual or entity, or sells, assigns, or transfers more than fifty percent (50%) of its interest in the Application Software (collectively referred to as a "Successor Event") and subject to the remainder of this Paragraph 10.7, if requested by County, Contractor shall provide the necessary training to the technically qualified County personnel designated by County to maintain the Source Code for the Application Software. Contractor shall provide training to a maximum of six (6) technically qualified personnel at no cost to County for up to two (2) training sessions within six (6) months. Such training shall be conducted at the facilities agreed to by the parties.

If subsequent to the Successor Event, the Application Software is not supported to at least the same level that Contractor supported the Application Software, as determined by County's Project Director acting reasonably, County may elect to (i) terminate the Agreement either for default pursuant to Paragraph 21 (Termination for Default) or for convenience pursuant to Paragraph 22 (Termination for Convenience) and treat such termination as a Release Condition under Paragraph 11.3.2 (Source Code Release Conditions) entitling it to the release of the Source Code or (ii) transfer the License, without cost or penalty, to another similar product (collectively referred to for purposes of this Paragraph 10.7 as "Replacement Product") within Contractor's assignee's or successor's product offering.

In any event, the assignee or successor, by taking benefit (including, without limitation, acceptance of any payment under this Agreement) shall be deemed to have ratified this Agreement. All terms and conditions of this Agreement shall continue in full force and effect for the Replacement Product. In addition, the following terms and conditions shall apply if County elects to transfer the License to a Replacement Product:

1. Any prepaid Maintenance Fees for Application Software shall transfer in full force and effect for the balance of the Replacement Product's maintenance and support term (or equivalent service) at no additional cost. If the prepaid amount is greater than the Replacement's Product's maintenance and support fees for the same term, the credit balance shall be applied to future Maintenance Fees or returned to County, at County's option;

- 2. Any and all modules offered separately, and needed to match the original Application Software's level of functionality, as determined by County's Project Director, shall be supplied by Contractor's assignee or successor without additional cost or penalty, and shall not affect the calculation of any Maintenance Fees;
- 3. County shall receive the necessary User training, as determined by County's Project Director, for purposes of learning the Replacement Product. Such training shall be provided at no cost to County or Users;
- 4. All License terms and conditions, at a minimum, shall remain as granted herein with no additional fees imposed on County; and
- 5. The definition of Application Software shall include the Replacement Product.

10.8 <u>Disclaimer of Other Warranties</u>

THE WARRANTIES SET FORTH IN THIS AGREEMENT ARE IN LIEU OF, AND CONTRACTOR HEREBY DISCLAIMS, ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, REGARDING THE SOFTWARE, PRODUCTS AND/OR SERVICES PROVIDED HEREUNDER, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, COUNTY'S ENJOYMENT OF THE FOREGOING AND FITNESS FOR A PARTICULAR PURPOSE.

10.9 Warranty Pass-Through

Contractor shall assign to County to the fullest extent permitted by law or by this Agreement and Contractor's right to do so, and shall otherwise ensure that the benefits of any applicable warranty or indemnity offered by any manufacturer of any System Software module and/or Component or any other product or service provided hereunder shall fully extend to and be enjoyed by County.

11. OWNERSHIP AND LICENSE

11.1 Ownership

11.1.1 System Environment

Contractor acknowledges that County owns all System Hardware and Facility Network Components supplied by County pursuant to Contractor's minimum requirements set forth in Sections I (Minimum System Environment Configuration) and listed in Section II (System Environment Specifications) of Attachment A.3 (System Environment).

11.1.2 System Software

All Application Software provided by Contractor to County pursuant to this Agreement is and shall remain the property of Contractor or any rightful third party owner and shall be subject to the terms of the License granted pursuant to Paragraph 11.2 (License) below.

.

11.2 License

11.2.1 <u>License Grant</u>

Subject to Paragraph 11.1 (Ownership), Contractor hereby grants to County a perpetual, irrevocable, non-exclusive license to use the Application Software, including, without limitation, Baseline Application, Updates, Baseline Customizations, Third Party Products acquired by County as Additional Software pursuant to the terms of this Agreement and Application Modifications, and related Documentation (hereinafter "License") by all Users as provided in this Paragraph 11.2 below.

11.2.2 <u>License Term</u>

The License granted under this Agreement shall commence upon the earlier of the delivery of a first Application Software Component to County or the Effective Date, and, provided undisputed payments for such License are made as provided herein, shall continue in perpetuity and without regard to the end of the term of this Agreement.

11.2.3 <u>Scope of License</u>

The License granted by Contractor under this Agreement provides County with the following rights:

- 1. To use, install, integrate with other software, operate and execute the Application Software on an unlimited number of computers, servers, local area networks and wide area networks, for an unlimited number of Users at the County Facilities except as may otherwise be expressly provided for in this Agreement;
- 2. To use, modify, copy, translate and compile the Application Software after such time as one of the Release Conditions described in Paragraph 11.3.2 (Source Code Release Conditions) has occurred which would permit County to use the Source Code as provided in this Paragraph 11.2 and Paragraph 11.3 (Source Code) below;
- 3. To use, modify, copy and display the Documentation, including, but not limited to, System and User manuals, as necessary or appropriate for County to enjoy and exercise fully the rights granted under this Agreement and the License;
- 4. To permit third party access to the Application Software, the Documentation, the Application Software Source Code, or any part thereof, as necessary or appropriate for County to enjoy and exercise fully the rights granted under this Agreement and the License, including for the provision of Maintenance and Support services, Application Modifications, Consulting Services or other business use or support of the Application Software; provided, however, without limiting County's rights under this Paragraph 11.2.3, County covenants and agrees that it shall not exercise any of the rights contained in this Paragraph 11.2.3(4) unless and until the occurrence of anyone of the Release Conditions, subject to the provisions of Paragraph 11.3.5 (Proprietary Restrictions);

5. Pursuant to Paragraph 73 (Assignment by County), to reproduce and use a reasonable number of copies of the Application Software: (i) by County and permitted assignees for archive and backup purposes; and (ii) by County for use by permitted assignees so long as all copies of the Application Software contain the proprietary notices appearing on the copies initially furnished to County by Contractor.

11.2.4 Successor Product

If Contractor markets a successor software product which replaces the Application Software at any time when County is entitled to receive Maintenance and Support services from Contractor, and if, with the consent of County, Contractor ceases to provide Maintenance Services or Support Services for such Application Software during the term of this Agreement, then County shall be entitled to such successor product (i) at no additional license fees during the Initial Term, provided that such successor product does not include substantial new functionalities and is not separately sold and marketed to all current customers of Contractor and (ii) at the pricing terms applicable to the Additional Software set forth in Section V.B (Additional Software) of Exhibit B (Schedule of Payments) with a credit given for the License fees paid by County to Contractor for the Application Software. County's license to such successor product shall be the same as County's License for the Application Software, and the Maintenance and Support terms shall remain unchanged.

11.3 Source Code

11.3.1 Source Code Escrow

11.3.1.1 Source Code Escrow Agreement

Upon the Effective Date, but not later than Contractor commences any work hereunder, Contractor shall have established a source code escrow with a nationally recognized source code escrow company (hereinafter "Escrow Agent") approved by County. A copy of the Source Code Escrow Agreement, which additionally shall be subject to approval by County, shall be attached as part of Exhibit H (Source Code Escrow Agreement) to this Agreement. Contractor shall deposit with the Escrow Agent the Source Code for all Application Software developed for or licensed to County under this Agreement. Contractor shall continually update the Source Code by depositing with the Escrow Agent Source Code for all Application Modifications and Updates, including, but not limited to, new Version Releases, updates, version upgrades, enhancements, modifications, corrections, patches and improvements of the deposited Application Software and any Application Software newly licensed or developed for the purpose of this Agreement, promptly after delivery to County of the corresponding object code. County shall be entitled to receive Source Code for all Application Modifications and Updates, including modifications, updates, version upgrades, enhancements, corrections, patches, improvements and new Version Releases, provided that County is paying any applicable Maintenance Fees. Contractor's duty to update the Source Code shall continue through the term of this Agreement or until County no longer obtains Maintenance and Support from Contractor, whichever is later.

Contractor's duty to maintain a Source Code Escrow Agreement and to deposit the Source Code with Escrow Agent shall continue throughout the term of this Agreement, unless one of

the Release Conditions occurs which would permit County to obtain and use the Source Code in accordance with the terms of this Paragraph 11.3. Contractor may, by written notice to County, change the Escrow Agent for the Source Code under this Agreement. Any such change (i) shall require County's advance written approval, (ii) shall be accomplished by a Change Notice or Amendment, as applicable, in accordance with Paragraph 4 (Change Notices and Amendments) above and (iii) shall require a new Source Code Escrow Agreement approved by County.

11.3.1.2 Natural Degeneration

The parties acknowledge that as a result of the passage of time alone, the deposited Source Code may be susceptible to loss of quality ("Natural Degeneration"). For the purpose of reducing the risk of Natural Degeneration, Contractor shall deposit with the Escrow Agent a new copy of all deposited Source Code at least once every two (2) years upon written request of County's Project Director. In the event the Source Code or any part of it is destroyed or corrupted, upon County's request, Contractor shall provide a replacement copy of the Source Code. Contractor shall deposit the replacement copy of the Source Code with the Escrow Agent within thirty (30) days of receipt of County's written request. County shall pay to Contractor the actual cost of the replacement copy media.

Upon written request from the County's Project Director, Contractor shall deliver to County, within five (5) Business Days of receipt of such request, such Source Code, provided that County is in compliance of all the terms and conditions of this Agreement.

11.3.2 <u>Source Code Release Conditions</u>

In addition to the conditions for release of Source Code identified in the Source Code Escrow Agreement, Contractor shall cause the release of the Source Code to County, and County shall have the right to immediately begin using the Source Code, as provided in Paragraph 11.3.4 (Possession and Use of Source Code), at no charge to County, upon the occurrence of the following events (collectively with the release conditions identified in the Source Code Escrow Agreement "Release Condition(s)"):

- 1. The insolvency of Contractor, including as set forth in Paragraph 23 (Termination for Insolvency);
- 2. The making of a general assignment by Contractor for the benefit of its creditors or a filing of a voluntary or involuntary petition in bankruptcy by or against Contractor that is not dismissed within ninety (90) days of the filing thereof;
- 3. Rejection of this Agreement or any agreement supplementary hereto in bankruptcy of Contractor;
- 4. Contractor ceases to maintain or support the current version and/or one (1) prior Version Release of the Application Software for reasons other than County's failure to pay for, or election not to receive, Contractor's Maintenance and Support services, and no other qualified entity has assumed the obligation to provide such Maintenance and Support services;

- 5. A failure to provide new Version Release or version of any Application Software Component that adds significant new functionality or significantly improves existing functionality within twenty-four (24) months from the previous Version Release;
- 6. Successor ceases to do business with County with respect to this Agreement; and
- 7. A different hardware platform is established for the product and required for use of the Application Software by Contractor, without maintenance of the Application Software on the originally agreed equipment platform within the term of this Agreement, other than due to the failure of the manufacturer of said platform to maintain and support same.

Contractor may contest County's right to use the Source Code pursuant to the Dispute Resolution Procedure, other than judicial proceedings as provided in Paragraph 54.6.

11.3.3 <u>County's Right to Verify Source Code</u>

Regardless of whether one of the Release Conditions occurs, County shall have the right, at County's sole expense, to verify the relevance, completeness, currency, accuracy, and functionality of the deposited Source Code by, among other things, compiling the Source Code and performing test runs for comparison with the applicable Application Software. In the event such testing demonstrates the Source Code does not correspond to the applicable Application Software, Contractor shall reimburse County for all costs and fees incurred in the testing and immediately deposit the correct Source Code with the Escrow Agent.

11.3.4 Possession and Use of Source Code

Upon the occurrence of a Release Condition (or any other release conditions that may be specified under this Agreement), County will, upon payment of the duplication cost and other handling charges of the Escrow Agent, be entitled to obtain a copy of such Source Code from the Escrow Agent. County shall be entitled to use the Source Code as needed to remedy the event of release and mitigate any damages arising from such event, provided that mitigation of damages shall not include the sale or sublicense of the Source Code. Such use will include, but is not limited to, County's right to perform its own support and maintenance of Application Software, alter or modify the Source Code and/or obtain the benefits sought under this Agreement, subject to the limitations of Paragraph 11.3.5 (Proprietary Rights) below.

11.3.5 <u>Proprietary Rights</u>

Subject to Paragraph 11.3.4 (Possession and Use of Source Code) and Contractor's ownership of, and County's License of, the Application Software as provided in Paragraph 11.1.2 (System Software), Source Code obtained by County under the provisions of this Agreement shall remain subject to every applicable Application Software license restriction, proprietary rights protection and other County obligation specified in this Agreement, provided, however, County may make such Source Code available to third parties as needed to assist it in making authorized use of the System. County acknowledges that any

possession of the Source Code referred to herein is subject to the confidentiality and proprietary provisions of access to any third party except to service, maintain, repair, operate, modify or otherwise facilitate and continue the use and operation of the installed Application Software as provided in this Agreement. Should use of the Source Code as provided in this Paragraph 11.3.5 involve the use or practice of any patent, copyright, trade secret, trademark or other proprietary information in which Contractor has an interest, Contractor, on behalf of itself and its assignees and successors, agrees not to assert a claim for patent, copyright, trade secret, trademark or other proprietary information infringement against County or any User provided use of Application Software and Source Code is in accordance with this Agreement. In no event shall County be permitted to sublicense the Source Code to any competitor or customer of Contractor. Likewise, County shall not be permitted to sell or transfer its rights in the Source Code to any other party. When Source Code is not in use, County agrees to keep such Source Code in a locked, secure place. When Source Code resides in a central processing unit, County shall limit access to its authorized employees and consultants who have a need to know in order to support the System.

11.3.6 Amendment of Source Code Escrow Agreement

As between County and Contractor, this Paragraph 11.3 (including Paragraph 11.3.2 (Source Code Release Conditions)) shall constitute an amendment to the Source Code Escrow Agreement and incorporate all of the Release Conditions identified in such Paragraph 11.3.2 (Source Code Release Conditions) above.

11.3.7 <u>Escrow Fees</u>

Other than for any other County payment obligations under this Paragraph 11.3, there shall be no charge to County for the maintenance of the Source Code Escrow Agreement under this Agreement.

12. <u>ACCEPTANCE OF SYSTEM BY COUNTY</u>

12.1 Final Acceptance

The System shall achieve Final Acceptance by County if and when County's Project Director, or his/her designee, has approved, in writing, Deliverable 9.1 (Non-Deficient System Production Use) of Exhibit A.1 (Statement of Work – Required Tasks).

12.2 Acceptance Tests

- 12.2.1 Contractor, with the assistance from County where applicable, shall conduct all tests (hereinafter "Acceptance Test(s)") specified in this Paragraph 12.2 and in Exhibit A.1 (Statement of Work Required Tasks). Such Acceptance Tests shall include, without limitation, the following:
 - A. Reliability Test: As set forth in Subtask 8.1 (Conduct Reliability Test) of Exhibit A.1 (Statement of Work Required Tasks), to confirm that the System Hardware and operating software have been installed and are operational and meet the System Performance Requirements.

- =

- B. <u>Integrated Functional Test</u>: As set forth in Subtask 8.2 (Conduct Integrated Functional Test) of Exhibit A.1 (Statement of Work Required Tasks), to confirm that Application Software, as a whole and when integrated with all components of System Software, including Third Party Software, meets the Functional Requirements.
- C. <u>Stress Test</u>: As set forth in Subtask 8.3 (Conduct Stress Test) of Exhibit A.1 (Statement of Work Required Tasks), to confirm that the Application Software, when operating in the System Environment, successfully processing large transaction volumes.
- 12.2.2 Contractor shall give County written notice of each Acceptance Test, and designated representatives of County may observe the Acceptance Tests and verify the results as County deems necessary or appropriate. Upon satisfactory completion of each Acceptance Test, Contractor shall deliver to County a written certification of successful completion of the applicable Acceptance Test.

12.3 <u>Production Use</u>

- 12.3.1 In order to achieve Final Acceptance, Contractor, with the assistance from County, shall maintain the System in Production Use at each County Facility as described in Task 9 (Final Acceptance) of Exhibit A.1 (Statement of Work Required Tasks).
- 12.3.2 Contractor shall have successfully completed Task 9 (Final Acceptance) of Exhibit A.1 (Statement of Work Required Tasks) which includes, without limitation, Contractor already having successfully completed, and County already having approved, all tasks, deliverables, goods, services and other work associated with Task 8 (Acceptance Testing) of Exhibit A.1 (Statement of Work Required Tasks), after County's Project Director has approved, in writing, Deliverable 9.1 (Non-Deficient System Production Use) of Exhibit A.1 (Statement of Work Required Tasks).
- In the event the System fails to successfully achieve Final Acceptance as described in Subtask 9.1 (Maintain Non-Deficient System Production Use) of Exhibit A.1 (Statement of Work Required Tasks), Contractor shall provide County with a diagnosis of the Deficiencies and proposed solution(s). County and Contractor shall agree upon all such proposed solutions prior to their implementation.
- 12.3.4 If the System fails to successfully achieve Final Acceptance, and Contractor is unable to correct all Severity Level I and II Deficiencies in accordance with the terms of this Agreement, then Contractor and County shall jointly configure, and Contractor shall purchase and install, at its own cost and expense, all additional hardware and software components necessary to address and correct such Deficiencies in order to cause the System to successfully achieve Final Acceptance.
- 12.3.5 Title to each such additional component of hardware shall automatically transfer from Contractor to County upon County's written approval of, and payment for, Deliverable 9.1 (Non-Deficient System Production Use) of Exhibit A.1 (Statement of Work Required Tasks). Contractor warrants to County that each component of such additional hardware shall be owned by Contractor and, upon the date of title transfer to County, shall be free and

clear of all liens and encumbrances. Contractor further warrants to County that upon County's written approval of, and payment for, Deliverable 9.1 (Non-Deficient System Production Use) of Exhibit A.1 (Statement of Work – Required Tasks), each component of such additional hardware shall be owned by County.

12.3.6 Upon County's written approval of, and payment for, Deliverable 9.1 (Non-Deficient System Production Use) of Exhibit A.1 (Statement of Work – Required Tasks), Contractor shall provide to County a License to each such additional component of software that is either predeveloped by Contractor or owned by a third party, or ownership to each such additional component of software that is developed by Contractor for the purpose of this Agreement, including achievement of Final Acceptance. Upon County's written approval of, and payment for, Deliverable 9.1 (Non-Deficient System Production Use) of Exhibit A.1 (Statement of Work – Required Tasks), each such additional software component, whether pre-developed, owned by a third party or developed by Contractor, shall be deemed to constitute a Component of System Software, and each such additional hardware component shall be deemed to constitute a Component of System Hardware comprising part of the System, and all such additional software and additional hardware shall be subject to the warranty provisions set forth in this Agreement, including without limitation Paragraph 10 (Warranties and Correction of Deficiencies).

12.4 Failed Testing

If County's Project Director makes a good faith determination at any time that the System as a whole, or any Component thereof, has not successfully completed an Acceptance Test or has not achieved Final Acceptance at a County Facility (collectively referred to for purposes of this Paragraph 12.4 as "Designated Tests"), County's Project Director shall promptly notify Contractor in writing of such failure, specifying with as much detail as possible the manner in which the System Component or the System failed to pass the applicable Designated Test. Contractor shall promptly commence all commercially reasonable efforts to complete, as quickly as possible, such necessary corrections, repairs and modifications to the System Component or the System as will permit the System Component or the System to be ready for retesting. Contractor shall notify County's Project Director in writing when such corrections, repairs and modifications have been completed, and the applicable Designated Test shall begin again. If, after the applicable Designated Test has been completed for a second time, County's Project Director makes a good faith determination that the System Component or the System again fails to pass the applicable Designated Test at the involved County Facility, County's Project Director shall promptly notify Contractor in writing, specifying with as much detail as possible the manner in which the System Component or the System failed to pass the applicable Designated Test. Contractor shall promptly commence all commercially reasonable efforts to complete, as quickly as possible, such necessary corrections, repairs and modifications to the System Component or the System as will permit the System Component or the System to be ready for retesting at the involved County Facility.

Such procedure shall continue, subject to County's rights under Paragraphs 6.2 (Milestones), 8.2 (Credits to County) and 8.3 (Termination) in the event Contractor fails to timely complete any Milestone or to timely deliver any Key Deliverable at a County Facility, until such time as County notifies Contractor in writing either: (i) of the successful completion of such

Designated Test or (ii) that County has concluded, subject to the Dispute Resolution Procedure, that satisfactory progress toward such successful completion of such Designated Test is not being made, in which latter event, County shall have the right to make a determination, which shall be binding and conclusive on Contractor, that a non-curable default has occurred and to terminate this Agreement in accordance with Paragraph 21 (Termination for Default) on the basis of such non-curable default.

Such a termination by County may be, subject to the Dispute Resolution Procedure, either, as determined by County in its reasonable discretion: (i) a termination with respect to one or more of the Components of the System; or (ii) if County reasonably believes the failure to pass the applicable Designated Test materially affects the functionality, performance or desirability to County of the System as a whole, the entire Agreement. In the event of a termination under this Paragraph 12.4, County shall have the right to receive from Contractor, within thirty (30) days of written notice of termination, reimbursement of all payments made to Contractor by County under this Agreement for the System Component(s) and related Deliverables as to which the termination applies, or, if the entire Agreement is terminated, all amounts paid by County to Contractor under this Agreement for the terminated County Facilities, if applicable, provided that Contractor does not dispute in good faith County's claim. If the termination applies only to one or more System Component(s), at County's sole option, any reimbursement due to it may be credited against other sums due and payable by County to Contractor. The foregoing is without prejudice to any other rights that may accrue to County or Contractor under the terms of this Agreement or by law.

13. SYSTEM USE

Subject to County's obligations of Acceptance set forth in Exhibit A.1 (Statement of Work – Required Tasks) and the Agreement, following Application Software installation by Contractor and prior to Final Acceptance by County, County shall have the right to use, in a Production Use mode, any completed portion of the System, without any additional cost to County where County determines that it is necessary for County operations. Such Production Use shall not restrict Contractor's performance under this Agreement and shall not be deemed Acceptance or Final Acceptance of the System.

14. <u>INDEMNIFICATION, INSURANCE AND PERFORMANCE SECURITY</u>

14.1 Indemnification

14.1.1 General

Subject to the provisions of Paragraph 14.1.2 (Limitation of Liability), Contractor shall indemnify, defend, and hold harmless County, its districts administered by County, and their elected and appointed officers, employees, and agents (collectively referred to for purposes of this Paragraph 14 as "County") from and against any and all claims, demands, damages, liabilities, losses, costs, and expenses, including, but not limited to, defense costs and legal, accounting and other expert, consulting or professional fees, in any way arising from or related to claims and lawsuits for damages, including, but not limited to, bodily injury, death, personal injury, economic loss or property damage arising from or related to Contractor, Contractor's agents', employees' or subcontractors' acts or omissions in the performance of

services or provision of products hereunder, including, without limitation, any workers' compensation suits, liability, or expense, arising from or connected with services performed by any person on behalf of Contractor, Contractor's agents, employees or subcontractors pursuant to this Agreement.

14.1.2 <u>Limitation of Liability</u>

Except for the events specified in Paragraphs 14.1.1 (General), 15 (Proprietary Considerations) and 16 (Intellectual Property Indemnification) or for fraud, willful, intentional or grossly negligent misconduct or an event causing bodily harm (whether in contract, tort or otherwise), neither party's liability for damages of any nature arising out of, resulting from, or in any way related to this Agreement, shall exceed the greater of (i) the total fees paid to Contractor for the particular Application Software Component or service provided under the Agreement in conformance therewith up to \$2,000,000 or (ii) the minimum limits of the applicable insurance required to be maintained by Contractor under the Agreement.

In no event shall either party be liable for any special, indirect, incidental or consequential damages (including but not limited to loss of profits or savings, downtime, damage to, or replacement of, equipment, property or data) arising from any claim (including contractor, tort or otherwise), even if a party has been advised of the possibility of such damages.

14.2 Insurance

14.2.1 General Insurance Requirements

Without limiting Contractor's indemnification of County, Contractor shall, during the term of this Agreement provide and maintain, and shall require all of its subcontractors to maintain, the following programs of insurance specified in this Agreement. Such insurance shall be primary to and not contributing with any other insurance or self-insurance programs maintained by County, and such coverage shall be provided and maintained at Contractor's own expense.

Subject to County's approval, Contractor may satisfy the insurance obligations herein through use of a self-insurance program. Under such self-insurance coverage, County shall be considered a protected party with the same protection from liability and defense of lawsuits as would be provided by first dollar commercial insurance. Contractor agrees to provide, on an annual basis, a current audited financial statement of its parent company, Per-Se Technologies, Inc., to be evaluated by County to verify Contractor has adequate financial resources to respond to claims falling within the self-insured retention or self-insured program. Contractor also agrees to notify County of any change in Contractor's financial condition which would have a significant negative effect on Contractor's self-insurance program, subject to Contractor's compliance with the applicable SEC regulations.

14.2.2 <u>Insurance Coverage Requirements</u>

14.2.2.1 <u>Insurance Programs</u>

14.2.2.1.1 <u>General Liability Insurance</u> (written on ISO policy form CG 00 01 or its equivalent), including County as an additional insured, with limits of not less than the following:

General Aggregate \$2 million
Products/Completed Operations Aggregate \$1 million
Personal and Advertising Injury \$1 million
Each Occurrence \$1 million

- 14.2.2.1.2 <u>Automobile Liability Insurance</u> (written on ISO policy form CA 00 01 or its equivalent) with a limit of liability of not less than \$1 million for each accident. Such insurance shall include coverage for all "owned", "hired" and "non-owned" vehicles, or coverage for "any auto".
- 14.2.2.1.3 Workers' Compensation and Employers' Liability Insurance providing workers' compensation benefits, as required by the Labor Code of the State of California or by any other state, and for which Contractor is responsible. In all cases, the above insurance shall also include Employers' Liability coverage with limits of not less than the following:

Each Accident \$1 million
Disease - Policy Limit \$1 million
Disease - Each Employee \$1 million

14.2.2.1.4 Professional Liability

Insurance covering liability arising from any error, omission, negligent or wrongful act of Contractor, its officers or employees with limits of not less than \$1 million per occurrence and \$3 million aggregate. Such coverage shall also be maintained for a period of not less than two (2) years commencing upon termination or cancellation of this Agreement.

14.2.2.1.5 <u>Intellectual Property Infringement</u>

Intellectual property insurance covering any actual or alleged infringement of any copyright, patent or other rights of third party, and any actual or alleged trade secret disclosure or misappropriation. Insurance coverage limit will be at least \$1 million per occurrence. If this insurance is written on a claims made form, Contractor shall either (a) maintain such insurance through the period ending two years following the expiration or termination of this Agreement or (b) obtain an endorsement on such insurance that provides an extended reporting period of not less than two (2) years following the termination or expiration of this Agreement or insurance policy, which ever is longer or (c) replace such claims made insurance coverage with equivalent coverage of the per occurrence form that covers the entire term of the Agreement.

14.2.2.2 Evidence of Insurance

Certificate(s) or other evidence of coverage satisfactory to County shall be delivered to the person designated in Section I (County's Key Personnel) of Exhibit G (Administration of Agreement) as County's Project Manager at the address specified therein prior to commencing work under this Agreement. Such certificates or other evidence shall, at a minimum:

- 1. Specifically identify this Agreement;
- 2. Clearly evidence all coverages required in this Agreement;
- 3. Contain the express condition that County is to be given written notice by mail at least thirty (30) days in advance of cancellation for all policies evidenced on the certificate of insurance; and
- 4. Include evidence confirming that the County of Los Angeles, its Special Districts, its officials, officers and employees, are included in the commercial general liability policy as additional insured for all activities arising from this Agreement.

14.2.2.3 <u>Insurer Financial Ratings</u>

Insurance is to be provided by an insurance company acceptable to County with an A. M. Best rating of not less than A:VII, unless otherwise approved by County.

14.2.2.4 Notification of Incidents, Claims or Suits

Contractor shall report to County:

- 1. Any accident or incident relating to services performed under this Agreement which involves injury or property damage which may result in the filing of a claim or lawsuit against Contractor and/or County. Such report shall be made in writing within one (1) week of Contractor's first knowledge of the occurrence.
- 2. Any third party claim or lawsuit filed against Contractor arising from or related to services performed by Contractor under this Agreement.
- 3. Any injury to a Contractor employee which occurs on County property. This report shall be submitted on a "County Non-employee Injury Report" to County's Project Manager.
- 4. Any loss, disappearance, destruction, misuse or theft of any kind whatsoever of County property, monies or securities entrusted to Contractor under the terms of this Agreement.

14.2.2.5 <u>Insurance Coverage Requirements for Subcontractors</u>

All subcontractors performing work under this Agreement shall be subject to the insurance requirements of this Agreement, including this Paragraph 14.2, and shall be maintained at no cost to County. Contractor shall ensure that any and all subcontractors performing services under this Agreement meet such insurance requirements, if any, by either:

1. Contractor providing evidence of insurance covering the activities of sub-contractors, or

2. Contractor providing evidence submitted by subcontractors evidencing that subcontractors maintain the required insurance coverage. County retains the right to obtain copies of evidence of subcontractor insurance coverage at any time.

In any event, Contractor shall be fully responsible for any and all liabilities arising out of Contractor's use of subcontractors under this Agreement, subject to the provisions of Paragraph 14.1.2 (Limitation of Liability).

14.3 Performance Security

Contractor shall furnish for the purpose of this Agreement, within thirty (30) days from the Effective Date, or such longer period as mutually agreed upon by County and Contractor, and in all events prior to commencing any work under this Agreement, a performance security in the form of a performance bond, a certificate of deposit, an irrevocable letter of credit or other performance security in the amount of Two Hundred Thousand Dollars (\$200,000) for each of five (5) County Facilities or One Million Dollars (\$1,000,000) in the aggregate for all five (5) County Facilities, as further provided in this Paragraph 14.3 below.

Prior to acceptance of Contractor's performance security, Contractor shall submit to County the form of the proposed performance bond or alternative security for approval by County's Risk Manager or County's Treasurer and Tax Collector, as applicable. Both the initial expense and the annual premiums of the performance security shall be paid by Contractor.

14.3.1 Performance Bond

If a performance bond is issued, such performance bond shall be in the form and substance satisfactory to County's Risk Manager and shall be maintained by Contractor in full force and effect until Final Acceptance, as applicable, of (i) the County Facility for which it has been issued, if issued on per County Facility basis, or (ii) the last of the five (5) County Facilities, if issued in the aggregate for all five (5) County Facilities. If the bond is issued for all five (5) County Facilities, upon Final Acceptance of each County Facility, the bond amount shall be adjusted downward by Two Hundred Thousand Dollars (\$200,000) until the performance bond is released upon Final Acceptance of the last County Facility. Any modification, extension or termination of this Agreement shall in no way release Contractor or any of its sureties from any of their obligations under such performance bond. Such bond shall contain a waiver of notice of any Change Notices and Amendments to this Agreement.

No payments shall be due Contractor until the performance bond is in place and approved in writing by County. The performance bond shall list County as Obligee and shall be issued by a corporate surety licensed to do business in the State of California and reasonably satisfactory to County. The County Agreement number and dates of performance shall be specified in the performance bond. Each performance bond shall secure Contractor's performance, including, without limitation, performing all Contractor's work in accordance with Exhibit A.1 (Statement of Work – Required Tasks) and providing Deliverables, and shall secure any and all damages, costs or expenses, resulting from Contractor's default in performance of this Agreement.

14.3.2 Alternative Performance Security

In the alternative, Contractor may provide certificates of deposit, cash deposits, United States government securities, or irrevocable letters of credit in lieu of commercial bonds to meet this provision. Such alternate forms of surety shall be made payable to the County of Los Angeles and shall be deposited with the County's Treasurer and Tax Collector. County shall have no liability or responsibility to Contractor for any such deposit or other collateral, and any loss by reason of the failure of any institution issuing such collateral shall be solely the liability and responsibility of Contractor.

14.4 Failure to Procure and Maintain Insurance and Performance Security

Failure by Contractor to procure and maintain the required insurance and performance security, or to provide evidence of insurance coverage reasonably acceptable to County, shall constitute a material breach of the Agreement, upon which County may terminate or suspend this Agreement. County, at its sole option, may then (i) obtain damages from Contractor resulting from such breach or, (ii) alternatively, purchase such required insurance coverage, and without further notice to Contractor, deduct from the sums due to Contractor any premium costs advanced by County for such insurance.

Notwithstanding the foregoing, in the event Contractor is unable to procure and maintain the required insurance and performance security or to provide evidence of insurance coverage reasonably acceptable to County within thirty (30) days from the Effective Date, or such longer period as mutually agreed upon by County and Contractor, County may suspend or terminate this Agreement without cause pursuant to Paragraph 22 (Termination for Convenience).

15. PROPRIETARY CONSIDERATIONS

15.1 County Materials

Contractor and County agree that all materials, plans, reports, Acceptance Test criteria, Test Plans, the Implementation Project Plan, Project Work Plan, Data Conversions, Documentation, all training materials, departmental procedures and processes, deliverables, data and any other information developed by County or by Contractor pursuant to and for delivery to County under this Agreement other than Application Software including any Component, module or Contractor's portion of Derivative Works of the foregoing (collectively "County Materials"), and all copyrights, patent rights, trade secret rights and other proprietary rights therein shall be the sole property of County. Contractor hereby assigns and transfers to County all of Contractor's right, title, and interest in and to all County Materials developed under this Agreement, provided that notwithstanding such County ownership, Contractor may retain possession of all working papers prepared by Contractor. During and for a minimum of five (5) years subsequent to the term of this Agreement, Contractor shall retain any and all such working papers. County shall have the right to inspect any and all such working papers, make copies thereof, and use the working papers and the information contained therein.

15.2 Transfer to County

Upon request of County, Contractor shall execute all documents requested by County and shall perform all other acts requested by County to assign and transfer to, and vest in, County all Contractor's right, title and interest in and to the County Materials, including, but not limited to, all copyright, patent and trade secret rights. County shall have the right to register all copyrights and patents in the name of County of Los Angeles. Further, County shall have the right to assign, license or otherwise transfer any and all County's right, title and interest, including, but not limited to, copyrights and patents, in and to the County Materials.

15.3 <u>Copyright Notice</u>

As requested in writing by County's Project Director, Contractor shall affix the following notice to County Materials developed under this Agreement: "Copyright 200_ (or such other date of first publication), County of Los Angeles. All rights reserved". Contractor shall affix such notice as directed by County.

15.4 <u>Contractor's Obligations</u>

Contractor shall protect the security of and keep confidential all County Materials obtained or developed under this Agreement. Further, Contractor shall use whatever security measures are necessary to protect all such County Materials from loss or damage by any cause, including fire and theft.

15.5 <u>Proprietary and Confidential</u>

Any and all County Materials which are developed or were originally acquired by Contractor outside the scope of this Agreement, which Contractor desires to use hereunder, and which Contractor considers to be proprietary or confidential, must be specifically identified by Contractor to County's Project Director as proprietary or confidential, and shall be plainly and prominently marked by Contractor as "PROPRIETARY" or "CONFIDENTIAL".

No Obligation by County

Notwithstanding any other provision of this Agreement, County shall not be obligated in any way under this Agreement for:

- i. Any disclosure of any materials which County is required to make under the California Public Records Act or otherwise by law; and
- ii. Any Contractor's proprietary and/or confidential materials not plainly and prominently marked with restrictive legends.

15.7 <u>Contractor's Intellectual Property</u>

County acknowledges and agrees (i) that the Application Software, Documentation, services performed in conjuncture with this Agreement, "Technology," meaning Source Code, know how, programming technique, sequence, structure, organization and design embodied in the Application Software are the confidential property and trade secrets of Contractor or its licensors; and (ii) that Contractor or its licensors retain all Proprietary Rights in and to the

foregoing and all copies thereof, including but not limited to any and all discoveries. inventions and other Proprietary Rights arising out of work done solely by Contractor or jointly with County. County shall have no right to use, disclose, or copy any of the foregoing except as expressly provided for on this Agreement and County's limited use of the foregoing is conditioned upon its compliance with the terms and conditions of this Agreement, including but not limited to County taking reasonably appropriate action, by written agreement or otherwise, with any individual to whom County discloses Application Software and/or Documentation and others to maintain the confidentiality and security of the foregoing work and the limited use rights granted to County. Further, County shall not translate, modify, adapt, dissembled, decompile, reverse engineer the Application Software or permit others to do so without the prior written permission of Contractor, unless one of the Release Conditions applies and County is entitled to the use of the Source Code subject to Paragraph 11.3.4 (Possession and Use of Source Code). County will not remove any proprietary notices incorporated in, marked on or affixed to any of the foregoing or any other Proprietary Rights materials provided by Contractor on any copies made by County of the same.

16. <u>INTELLECTUAL PROPERTY INDEMNIFICATION</u>

16.1 Warranty

Contractor represents and warrants: (i) that Contractor has the full power and authority to grant the License, ownership and all other proprietary rights granted by this Agreement to County; (ii) that no consent of any other person or entity is required by Contractor to grant such rights other than consents that have been obtained and are in effect; (iii) that County is entitled to use the System without interruption, subject only to County's obligation to make the required payments under this Agreement; (iv) that this Agreement and the Application Software licensed or acquired herein, are neither subject to any liens, encumbrances, or pledges nor subordinate to any right or claim of any third party, including Contractor's creditors; (v) that during the term of this Agreement, Contractor shall not subordinate this Agreement or any of its rights hereunder to any third party without the prior written consent of County, and without providing in such subordination instrument for non-disturbance of County's use of the System (or any part thereof) in accordance with this Agreement; and (vi) that neither the performance of this Agreement by Contractor, nor the License to or ownership by, and use by, County and its Users of the Application Software in accordance with this Agreement will in any way violate any non-disclosure agreement, nor constitute any infringement or other violation of any copyright, trade secret, trademark, service mark. patent, invention, proprietary information, or other rights of any third party.

16.2 Indemnification

Subject to Paragraphs 16.3 (Remedial Measures) and 16.4 (Failure to Provide Remedial Measures), Contractor shall indemnify, hold harmless and defend County, its officers, employees and agents, from and against any and all claims, demands, damages, liabilities, losses, costs and expenses, including, but not limited to, defense costs and legal, accounting and other expert, consulting or professional fees and attorney's fees, as such are incurred, for or by reason of any actual or alleged infringement of any third party's patent or copyright, or any actual or alleged unauthorized trade secret disclosure or misappropriation, arising from

or related to the Application Software or the operation and utilization of Contractor's work under this Agreement (collectively referred to for purposes of this Paragraph 16 as "Infringement Claim(s)"). Any legal defense pursuant to Contractor's indemnification obligations under this Paragraph 16 shall be conducted by Contractor and performed by counsel selected by Contractor and approved by County in writing, which approval shall not be unreasonably withheld. Notwithstanding the foregoing, County shall have the right to participate in any such defense at its sole cost and expense, except that in the event Contractor fails to provide County with defense, as required by law or this Agreement, County shall be entitled to reimbursement for all such costs and expenses.

16.3 <u>Remedial Measures</u>

County shall notify Contractor, in writing, as soon as practicable of any claim or action alleging such infringement or unauthorized disclosure. Upon such notice by County if County is then under Maintenance and Support, Contractor shall, at no cost to County, as remedial measures, either: (i) procure the right, by license or otherwise, for County to continue to use the Application Software or affected Component(s) thereof, or part(s) thereof, to the same extent of County's License or ownership rights under this Agreement; or (ii) to the extent Contractor is unable to procure such right, replace or modify the Application Software or Component(s) thereof with another software or component(s) thereof of at least equivalent quality and performance capabilities, until the Application Software and all Components thereof become non-infringing, non-misappropriating and non-disclosing (hereinafter "Remedial Measure(s)").

16.4 Failure to Provide Remedial Measures

If Contractor, using reasonably commercial best efforts, fails to complete the Remedial Measures in Paragraph 16.3 (Remedial Measures), County shall have the right to suspend or terminate the License for the allegedly infringing Application Software, or Component(s) thereof, if County reasonably believes that the Application Software, or Component(s) thereof, at issue are infringing. Contractor shall have the right to suspend or terminate the License for such Application Software, or Component(s) thereof, if a court of competent jurisdiction finds the Application Software, or Component(s) thereof, to be infringing and orders County to cease using such Application Software, or Component(s) thereof, due to infringement. Upon termination of the License for such Application Software, or Component(s) thereof, Contractor shall return (i) all License fees paid by County for the terminated Application Software, or Component(s) thereof, if such event occurs during the Initial Term; and (ii) the License fees paid for the terminated Application Software, or Component(s) thereof, less amortization on a straight line basis over the period commencing with the expiration of the Initial Term through the end of the Extended Term, if such event occurs during the Extended Term and County is under Maintenance and Support.

16.5 Exceptions

Contractor shall have no liability for any claim of infringement that is based on: (a) any modification of the Application Software by a party other than Contractor or any of its subcontractors, if applicable; (b) the use of the Application Software in combination with any product, software, machine or device which is not delivered, recommended or identified by

Contractor as compatible with the Application Software, where, absent such combination, the Application Software would not be infringing, (c) the use of a Version Release included as part of Updates, other than the most current or the prior Version Release of the Application Software, unaltered by anyone other than Contractor or its subcontractors, if applicable, provided that the use of the most current or the prior Version Release would have cured the alleged infringement, or (d) County is not under Contractor's Maintenance and Support.

17. PROHIBITION AGAINST ASSIGNMENT AND DELEGATION

- 17.1 Contractor shall not assign its rights and/or delegate its duties under this Agreement, or both, whether in whole or in part, without the prior written consent of County, which consent shall not be unreasonably withheld, and any attempted assignment or delegation without such consent shall be null and void. For purposes of this Paragraph 17, County's consent shall require a written Amendment to this Agreement, which is formally approved and executed in accordance with Paragraph 4 (Change Notices and Amendments). Any payments by County to any approved delegatee or assignee on any claim under this Agreement, in consequence of any such consent, shall reduce dollar for dollar any claims which Contractor may have against County and shall be subject to set-off, recoupment, or other reduction for any claims which County may have against Contractor, whether under this Agreement or otherwise.
- Shareholders, partners, members or other equity holders of Contractor may transfer, sell, exchange, assign, or divest themselves of any interest they may have therein. However, in the event any such sale, transfer, exchange, assignment, or divestment is effected in such a way as to give majority control of Contractor to any person(s), corporation, partnership, or legal entity other than the majority controlling interest therein at the time of execution of this Agreement, such disposition is an assignment requiring the prior Consent of County in accordance with the applicable provisions of this Agreement.
- Any assumptions, assignment, delegation or takeover of any of Contractor's duties, responsibilities, obligations or performance of same by any entity other than Contractor, whether through assignment, subcontract, delegation, merger, buyout or other mechanism, with or without consideration for any reason whatsoever without County's express prior written approval, shall be a material breach of this Agreement which may result in the termination of the Agreement. In the event of such termination, County shall be entitled to pursue the same remedies against Contractor as it could pursue in the event of default by Contractor.

18. SUBCONTRACTING

County has relied, in entering into this Agreement, on the reputation of and on obtaining the personal performance of Contractor itself. Consequently, no performance of this Agreement, or any portion thereof, shall be subcontracted by Contractor without the prior written approval of County as provided in this Paragraph 18. Any attempt by Contractor to subcontract any performance under this Agreement without the prior written consent of County shall be null and void and shall be deemed a material breach of this Agreement, upon which County may immediately terminate this Agreement. Notwithstanding the foregoing, Contractor has identified and entered into subcontract(s) with the following subcontractor(s), which are deemed approved by County (collectively referred to for purposes of this

Paragraph 18 as	"Preapproved	Subcontractor(s)")	for the purpose	of this	s Paragraph 18	
-----------------	--------------	--------------------	-----------------	---------	----------------	--

- 18.2 If Contractor desires to subcontract any portion of its performance under this Agreement with contractors other than Preapproved Subcontractor(s), Contractor shall provide to County, in writing, a request for written approval to enter into the particular subcontract, which request shall include:
 - 1. The reason(s) for the particular subcontract;
 - 2. Identification of the proposed subcontractor and an explanation of why and how the proposed subcontractor was selected;
 - 3. A detailed description of the work to be performed by the proposed subcontractor;
 - 4. Confidentiality provisions applicable to the proposed subcontractor's officers, employees and agents, which would be incorporated into the subcontract;
 - 5. A draft copy of the proposed subcontract agreement, which shall, at a minimum:
 - (a) include representations and warranties by subcontractor that subcontractor (i) is qualified to perform the work for which subcontractor has been hired; (ii) maintains the insurance required by this Agreement, and (iii) is solely liable and responsible for any and all of its taxes, payments and compensation, including compensation to its employees;
 - (b) provide for indemnification by subcontractor of County and Contractor under the same terms and conditions as the indemnification provisions of this Agreement set forth in Paragraphs 14.1 (Indemnification) and 16 (Intellectual Property Indemnification);
 - (c) include (i) Exhibit E (Contractor Employee Acknowledgment, Confidentiality and Assignment Agreement), (ii) Exhibit F (Contractor's EEO Certification), (iii) Exhibit J (Safely Surrendered Baby Law), and (iii) any other standard County required provisions.
 - 6. Unless otherwise determined unnecessary by County, copies of certificates of insurance and performance security from the proposed subcontractor which establish that the subcontractor maintains all required programs of insurance and performance security.
 - 7. Other pertinent information and/or certifications requested by County.
- 18.3 County will review Contractor's request to subcontract and determine on a case-by-case basis whether or not to consent to such request, which consent shall not be unreasonably withheld.
- 18.4 Subject to the provisions of Paragraph 14.1.2 (Limitation of Liability), Contractor shall indemnify, defend and hold harmless County, its officers, employees and agents, from and against any and all claims, demands, liabilities, damages, costs and expenses, including, but

Test Plans shall include, as applicable, a description of the scope of the testing effort, test environment, the test strategy including testing tools to be used, test scenarios, detailed test cases that address positive and negative testing and the expected results. Contractor and County shall agree on test scenarios and scripts for each Acceptance Test before execution of such Acceptance Test. In addition, each Acceptance Test plan shall include a section addressing dependencies and assumptions, issue tracking of all issues and resolutions identified during testing. Contractor shall address the priority level of identified issues in the Test Plan. The Test Plan shall also describe reports that will be provided to County's Project Manager, or his/her designee, listing issues fixed and outstanding.

Contractor shall present each Test Plan, at the applicable County Facility project team meeting, to County's Project Manager, County central project team and other County staff, as designated by County's Project Director. Contractor and County may revise the Test Plan to ensure complete System coverage and compliance with the requirements of this Exhibit A.1. The Test Plan shall be deemed completed for the purpose of this Task 7 only upon County's written approval thereof.

Subtask 7.1 – Develop Reliability Test Plan

The Test Plan for Reliability Test shall include at a minimum:

- 1. A listing of all System Hardware to be tested;
- 2. The schedule for testing;
- 3. The method to ensure that System Hardware is operating in accordance with the Specifications; and
- 4. Test results documentation methods.

Deliverable 7.1 – Reliability Test Plan

Contractor shall complete and deliver to County for County's written approval a Test Plan for Reliability Test developed under Subtask 7.1 (Develop Reliability Test Plan).

Subtask 7.2 - Develop Integrated Functional Test Plan

The Test Plan for Integrated Functional Test shall include at a minimum:

- 1. A description of the test domain;
- 2. A plan for loading test data;
- 3. A plan, developed in collaboration with County staff, for connection of Baseline Interfaces to either production feeds or test feeds;
- 4. Personnel required for testing;

- 5. Test scenarios covering a comprehensive set of business processes for which the System will be used by the County;
- 6. Test scripts for identified test scenarios;
- 7. Contractors' standard functional testing;
- 8. The schedule for testing;
- 9. Test results documentation methods, including any forms or software applications, that will be used; and
- 10. Methods for retesting after correction of any identified Deficiencies.

Deliverable 7.2 – Integrated Functional Test Plan

Contractor shall complete and deliver to County for County's written approval a Test Plan for Integrated Functional Test developed under Subtask 7.2 (Develop Integrated Functional Test Plan).

Subtask 7.3 – Develop Stress Test Plan

The Test Plan for Stress Test shall include at a minimum:

- 1. A description of the test domain;
- 2. A plan for loading test data;
- 3. A plan, developed in collaboration with County staff, for simulating interface transactions;
- 4. Test scenarios covering a comprehensive set of business processes for which the System will be used by the County;
- 5. Test scenarios covering all requirements listed in Attachment A.1 (System Functional Requirements);
- 6. Written test scripts for identified test scenarios;
- 7. The schedule for testing;
- 8. Applicable Exception Report;
- 9. Test results documentation methods.

Deliverable 7.3 – Stress Test Plan

Contractor shall complete and deliver to County for County's written approval a Test Plan for Stress Test developed under Subtask 7.3 (Develop Stress Test Plan).

TASK 8 – ACCEPTANCE TESTING

For each County Facility, Contractor, with direction from County, shall perform each of the Acceptance Tests according to the Test Plans developed by Contractor under Task 7 (Test Plans) and specified in the Implementation Project Plan developed under Subtask 3.1 (Dedicate Project Manager), the Project Work Plan and Paragraph 12 (Acceptance of System by County). County's approval shall be

required before any Acceptance Test is deemed complete. All test cycles shall be repeated as necessary to achieve the required results.

Subtask 8.1 – Conduct Reliability Test

The Reliability Test shall test operation of all System Hardware continuously and in accordance with Specifications for a period of not less than 30 days.

The Reliability Test shall be conducted when System Hardware and operating software have been installed and are operational and shall verify the System Hardware meets System Performance Requirements.

Each Component of the System Hardware shall be tested in accordance with the Reliability Test Plan developed under Subtask 7.1 (Develop Reliability Test Plan) and the approved Project Work Plan.

Such Reliability Test shall end when the System Hardware or portion thereof being tested has operated continuously with no downtime for a period of thirty (30) consecutive days and performs in accordance with applicable Specifications.

Deliverable 8.1 – Reliability Test

Contractor shall provide to County documented Reliability Test results in accordance with the Test Plan for such Reliability Test and shall certify in writing that Contractor has successfully performed the Reliability Test in accordance with Subtask 8.1 (Conduct Reliability Test).

Subtask 8.2 – Conduct Integrated Functional Test

The Integrated Functional Test shall verify that:

- 1. Each Application Software Component performs according to Specifications, including Functional Requirements;
- 2. Each Baseline Interface performs according to Specifications; and
- 3. All Application Software Components and all Baseline Interfaces perform in an integrated fashion.

The Integrated Functional Test shall verify that all required System functionality is present and performs in accordance with the Specifications. Contractor shall work with County and/or its agents including, but not limited to interface engine vendor and foreign system vendors, in performing the Integrated Functional Test.

Each Application Software Component, Baseline Interface and Baseline Modification Component shall be tested in accordance with the Test Plan for

Integrated Functional Test developed under Subtask 7.2 (Develop Integrated Functional Test Plan) and the approved Project Work Plan.

Such Acceptance Test shall end when all Deficiencies have been resolved and Contractor has documented, provided County with the documentation of, successful completion of all functional testing in accordance with the applicable Test Plan.

Deliverable 8.2 – Integrated Functional Test

Contractor shall provide to County documented Integrated Functional Test results in accordance with the Test Plan for such Acceptance Test and shall certify in writing that Contractor has successfully performed the Integrated Functional Test in accordance with Subtask 8.2 (Conduct Integrated Functional Test).

Subtask 8.3 – Conduct Stress Test

The Stress Test shall be conducted to determine the effect of very large transactions volumes on performance of the System operating in the System Environment set up by County in accordance with Contractor's specifications provided under Deliverable 4.1 (Minimum System Environment Configuration) and Deliverable 4.2 (System Environment Certification).

Each Application Software Component, Baseline Interface and Baseline Modification Component shall be tested in accordance with the Test Plan for Stress Test developed Subtask 7.3 (Develop Stress Test Plan) and the approved Project Work Plan.

Any Deficiencies observed in System Hardware or operating software shall be resolved before proceeding. Any Deficiencies observed in the Application Software that are a result of high transaction volumes shall be documented.

Deliverable 8.3 – Stress Test

Contractor shall provide to County documented Stress Test results and shall certify in writing that Contractor has successfully performed the Stress Test in accordance with Subtask 8.3 (Conduct Stress Test).

TASK 9 – FINAL ACCEPTANCE

Subtask 9.1 - Maintain Non-Deficient System Production Use

Following Go-Live, the System shall operate in Production Use at each County Facility with no Severity Level I or II Deficiencies, as reasonably determined by

County's Project Manager in accordance with the terms of this Agreement, for thirty (30) consecutive days. Upon occurrence of such Deficiency, Contractor shall correct such Deficiency and restart the thirty (30) consecutive day cycle. The System shall achieve Final Acceptance upon completion of such thirty (30) consecutive day cycle. If it is ultimately determined that the Problem is not a Severity Level I or II Deficiency, then the System run shall continue for the balance of the thirty (30) day cycle.

Deliverable 9.1 – Non-Deficient System Production Use

For each County Facility, Contractor shall provide to County documented results of Severity Level I and II Deficiency free thirty (30) consecutive day System run in accordance with Subtask 9.1 (Maintain Non-Deficient System Production Use) and shall certify in writing that the System has achieved Final Acceptance as a result.

TASK 10 – SYSTEM TRAINING AND DOCUMENTATION

Subtask 10.1 – Provide System Training

Contractor shall prepare and implement a comprehensive System Training program, including any necessary training materials, as further described in Attachment A.4 (System Training). The training program shall include training courses addressing central project team training, end-user training and train-the-trainers for the County's project team, end-users and trainers at each County Facility.

As part of System Training, Contractor shall provide the designated County groups with extensive working knowledge of the System Software capabilities, as well as training in the administration of the System Software. Training materials will only be provided to those County personnel attending the Training sessions.

Deliverable 10.1 - Trained County Staff

For the purpose of conducting System Training, Contractor shall develop a detailed plan for each County Facility for training of County Facility staff on the use of the System Software. Contractor shall deliver training classes and training materials consistent with the classes described in the County-approved plan and certify in writing that all System Training as described in Subtask 10.1 (Provide System Training) has been successfully completed. Subject to Contractor's obligations with respect to County real and personal property set forth in the body of the Agreement, County will cooperate fully with Contractor to enable Contractor to carry out its duties and obligations under the applicable Agreement. County will, without charge, provide Contractor access to all appropriate County

Facilities and equipment, including without limitation, office space, telephone service, reproduction equipment, programming facilities, computers, hardware and software, as are reasonably necessary for Contractor to carry out its duties and obligations under this Agreement.

Subtask 10.2 - Provide User Documentation

Contractor shall prepare, and provide to County, user reference Documentation for all System Software. This Documentation shall include, without limitation, manuals, which will be available on line that shall provide each County Facility with a comprehensive reference source of System functionality and data definitions.

Deliverable 10.2 - System Documentation

Contractor shall provide to each County Facility System Software Documentation in accordance with Subtask 10.2 (Provide User Documentation). Contractor shall deliver the Documentation to each County Facility as in an electronic format, unless otherwise specified herein. Contractor shall also deliver electronic links to any on-line help and Documentation files for the System Software, if available.

TASK 11 - MAINTENANCE AND SUPPORT

Subtask 11.1 – Provide Maintenance and Support

Contractor shall provide Maintenance and Support services in accordance with the requirements of this Agreement, including Exhibit D (Maintenance and Support Services) with all Schedules thereto. Maintenance and Support services include Maintenance Services, consisting of Updates, as well as operational Support Services, which include, but are not limited to, help-desk support during the hours of operation ("Help Desk"), as requested by County. County acknowledges that Help Desk support is not to be utilized as a substitute for or in lieu of training of end-user County personnel.

The operational Support Services shall commence upon Production Use and shall continue during the term of this Agreement, if elected by County. The Support Services shall include, without limitation:

- (A) Support for System Software issues/problems;
- (B) Support for System Software upgrades, updates, new releases, etc:
- (C) Support for System Software fixes, patches, etc.;

(D) Access to knowledgeable Contractor personnel (i.e., Help Desk) who can answer questions on the use of the System or provide analysis on solutions to operational problems County may encounter during the Support Hours.

Deliverable 11.1 – Maintenance and Support

Maintenance Services and operational Support Services shall be provided by Contractor in accordance with Subtask 11.1 (Provide Maintenance and Support), Exhibit D (Maintenance and Support Services) and the body of this Agreement and shall include, but not be limited to:

- (A) Providing and maintaining System Software, as appropriate;
- (B) Providing System Software Updates, as appropriate;
- (C) Responding to operational Support Services requests made by County.

TASK 12 - APPLICATION MODIFICATIONS

Subtask 12.1 – Develop Customizations

Following Final Acceptance, County may from time to time, during the term of this Agreement, submit to Contractor for Contractor's review written requests for Customizations for enhancements not reflected in the Functional Requirements, including, but not limited to, addition, deletion or modification of Application Software functions, changes to current System outputs, new and modified reports, new screens and Future Interfaces. If Contractor determines that a requested Customization is technologically and economically feasible, can be accomplished without otherwise impairing the functionality of the Application Software and is not inconsistent with Contractor's development plans, then Contractor shall submit to County for approval a System Design Report ("SDR") describing the Customization and providing an estimation of personnel hours to complete the Customization, a not-to-exceed Maximum Fixed Price calculated based on the Fixed Hourly Rate and other pricing terms set forth in Section V.A (Customizations) of Exhibit B (Schedule of Payments). County and Contractor shall agree on the Scope of Work developed using the SDR, which shall at a minimum include the tasks and deliverables to be performed, Acceptance Tests and warranty provisions, as applicable, and the Maximum Fixed Price for such Customization.

Any enhancements or modifications of System functionalities resulting from Customizations shall be incorporated into, and become part of, the System Functional Requirements. All Customizations developed by Contractor under this Agreement shall be subject to County's written approval in accordance with the terms of this Agreement.

Deliverable 12.1 – Customizations

Upon County's request for, and Contractor's agreement to provide, Customizations, Contractor shall complete and install all Customizations in accordance with Subtask 12.1 (Develop Customizations) and certify in writing that each Customization meets the requirements of the applicable Scope of Work, including any required Acceptance Tests, and Functional Requirements.

Subtask 12.2 - Provide Additional Software

Following County's request for Additional Software made from time to time during the term of this Agreement, Contractor shall submit to County for approval a not-to-exceed Maximum Fixed Price calculated based on the pricing terms set forth in Section V.B (Additional Software) of Exhibit B (Schedule of Payments). County and Contractor shall agree on the Scope of Work for implementation of

such Additional Software, which shall at a minimum include the tasks and deliverables to be performed, Acceptance Tests and warranty provisions, as applicable, and the Maximum Fixed Price for such Additional Software.

Any enhancements or modifications of System functionalities resulting from Additional Software shall be incorporated into, and become part of, the System Functional Requirements. All acquisitions of Additional Software under this Agreement shall be subject to County's written approval in accordance with the terms of the Agreement.

Deliverable 12.2 – Additional Software

Contractor deliver and install Additional Software in accordance with Subtask 12.2 (Provide Additional Software) and certify in writing that the Additional Software meets the requirements of the applicable Scope of Work and Functional Requirements.

TASK 13 - PROFESSIONAL SERVICES

Subtask 13.1 – Provide Consulting Services

Contractor shall, upon the written request by County's Project Director, or his/her designee, provide Consulting Services during the term of this Agreement. Following County's request for Consulting Services, Contractor shall submit to County for approval a not-to-exceed Maximum Fixed Price calculated based on the Fixed Hourly Rate and other pricing terms set forth in Section VI.A (Consulting Services) of Exhibit B (Schedule of Payments). Contractor additionally shall submit an estimation of personnel hours to complete such Consulting Services. County and Contractor shall agree on the Scope of Work for the tasks and deliverables to be performed and the Maximum Fixed Price for such Consulting Services.

All Consulting Services provided by Contractor under this Agreement shall be subject to County's written approval in accordance with the terms of this Agreement.

Deliverable 13.1 – County Approved Consulting Services

Contractor shall provide Consulting Services in accordance with Subtask 13.1 (Provide Consulting Services) and certify in writing that the Consulting Services meet the requirements of the applicable Scope of Work and the service standards set forth in this Agreement.

Subtask 13.2 - Conduct Additional Training

Contractor shall, upon written request by County's Project Director, provide Additional Training, including, without limitation, any necessary Training material at the request of the County. The Additional Training program shall include Training courses addressing central project team Training, end-user Training and train-the-trainers for the County's central project team staff, end-users and trainers respectively. As part of the Training, Contractor shall provide the designated County groups with extensive working knowledge of the System Software capabilities, including, without limitation, any post-implementation enhancements, revisions, improvements, bug fixes, patches, upgrades, Updates, Deficiency corrections, Interfaces, as well as training in the administration of the System Software.

Deliverable 13.2 - Newly Trained and Retrained County Staff

For the purpose of conducting Additional Training, Contractor, with the assistance of the applicable County Facility staff, shall plan and create a training environment at the each County Facility separate and distinct from the testing environment, which will be at Contractor's then current rate or at rate predetermined pursuant to this Agreement

Contractor shall develop a detailed plan to provide Additional Training for each County Facility staff on the use of the System. Contractor shall deliver Training classes consistent with the classes described in the County-approved plan and certify in writing that all Training as described in Subtask 13.1 (Provide Additional Training) has been successfully completed.

FUNCTIONAL REQUIREMENTS

The Application Software provided by Contractor under the Agreement shall, during the term of the Agreement, meet the following Functional Requirements, unless they denoted as "Not Applicable".

I. Technical Requirements	Yes	8	A/N	Notes
All applicable software must be capable of interfacing with Windows 2003 Client/Server				
Network. Oracle/Unix and compatible personal				
The server that will hast the application is an IBM				
Model 520, 4 73.4 GB 10,000 RPM Ultra 320				
SCSI Disk Drive. 2048 MB DIMMs, 266 MHz DDR				
SDRAM, 2-way 1.5 GHz processor				
The client PC is a Standard: Intel Pentium 4, 512				
K Cache, 512 MN, Non-ECC, 333 MHz DDR, 40				
GB Hard Drive, EIDE, 9.5 MM, 5400 RPM				
The existing network infrastructure that the				
application will be using is Ethernet wit hswitched				
10/1000 Ethernet to the desktop, Gigabyte fiber		•		
Ethernet on the backbone, a Firewall and Cat 5	.,			
horizontal wiring for virtual LANS				
The system must be Y2K compliant (four digit				
years)				

II. Business System Minimum	Yes	S N	N/A	N/A Notes
Requirements				
GENERAL				
Lookups				
Perform Contain Search, Begins With Search and Exact Match Search				
View Delete Records on select Lookups				
Perform Multi Select on select Lookup				
Utilize the multiple Search Columns				

II. Business System Minimum	Yes	2	N/A	Notes
Requirements				
Configure Columns in Result				
Configure Maximum number of records to be returned from 1 to 9999 using the More Buffon	·			
Slot View Tool Tip.				
Turn on the system Preference "Enable Tooltip				
Window". Logout and in, the go to the Slot View				
and hover over a case (or click on a case) displayed in the slot view.				
SCHEDULER				
Scheduler >Patient Data				
Create Demographic data, Clinical, and				
Insurance Information				
Pre-Register and Save Patient				
Modify/Update Existing Patient Data				
Use Help Contents from Menu bar				
Scheduler > Appointment Book				
Pre-Register a Patient				
Book an account number without a procedure				
Book a Case and Book an Appointment				
Search using 1st Case of Day				
Search using 1st case Horizontal Icon				
Search using 1st case Vertical Icon				
Search using Block Search 1st case Horizontal				
Use Procedure Questions icon				
Use Schedule Conflict icon, note conflicts in one				
message				
Cancel Case and Cancel Appointment to Waitlist				
Cancel and Reactivate a Case				
Cancel and Reactivate an Appointment				
Insert and Delete Procedures through right				

II. Business System Minimum	Yes	9 N	N/A	Notes
Requirements				
mouse and hot keys				
Refresh Slot View				
Clinical Tab: Update / New Account function				
Use Help Contents from menu bar				
Procedure Edit – Procedure -Complete all fields				
and check case in Post Case				
Procedure Edit – Procedure - Verify Pre-Case				
Diagnosis, Procedure Description and Case				
Comments hold 255 characters & transfers to				
Procedure Edit - Resource/Test - Insert row after				
and delete row				
Procedure Edit - Resource/Test - replace room,				
staff, equipment resources				
Procedure Edit – Resource/Test – add room,				
staff, equipment group resources				
Procedure Edit – Resource/Test – Perform all				
Lookups				
Procedure Edit – Resource/Test- add role code				
to previously added staff				
Procedure Edit – Resource/Test -Add a piece of				
Equipment that is part of a Room Location but				
not this room				
Save insurance data using Update Insurance Button				
Schedule - Cycle Utilization and Cycle Slot (Slot				
View)				
Schedule - Mark, Unmark All, and Unmark Slot				
(Slot View)				
Pack, Swap, Bump, Reorder Slot (Slot View)				
Juggle By Age (Slot View)				
Adjust procedure work area size (affects all				
Adjust slot view area size				
Adjust siot view area size				

II. Business System Minimum	Yes	8	N/A	Notes
Requirements				
Reschedule a Case to a different date or time;	·			
Reschedule an Appointment to a different date or time				
Set Slot View column sizes and verify user				
setting holds				
Print Appointment Documents.				
Scheduler > Appointment Book - Central				
Scheduling				
Book Cyclic Appointment more than 5 cases				
Book a Case with Save icon / Shift-F9				
Book a cyclic appointment with the same account				
number Clinical and Insurance data will be the				
same for all cases system preference, YESNO				
SAME ACCOUNT NUMBER FOR				
APPOINTMENT, must be set to Yes				
Book a cyclic appointment with different account				
numbers Clinical and Insurance data will be				
different for each case system preference,			was a war a wa	
YESNO SAME ACCOUNT NUMBER FOR				
APPOINTMENT, must be set to No				
Book an appointment with multiple mains with the				
same account number system preference,				
YESNO SAME ACCOUNT NUMBER FOR				
APPOINTMENT, must be set to Yes				
Book an appointment with multiple mains with				
different account number system preference,				
YESNO SAME ACCOUNT NUMBER FOR				
APPOINTMENT, must be set to No				
Search using 1st Case of Day				
Search using 1st case Horizontal Icon				
Search using 1st case Vertical Icon				
Search using Block Search 1st case Horizontal				
lcon				
Book a protocol				

II. Business System Minimum	Yes	No	N/A	Notes
Requirements				
Reschedule a protocol using search icons				
Cancel and Reactivate a Case				
Cancel and Reactivate Appointment				
Cancel a Case and Appointment to the Waitlist				
Update Insurance				
Insert and Delete Procedures				
Complete Procedure Edit				
Print Appointment Documents.				
Update and Create New Account prior to save				
Adjust procedure work area size (affects all				
scheduling views)				
Verify user screen size settings hold				
Scheduler > Appointment Book - Waitlist				Used with Provider Access Module or
Request				Scheduler>Waitlist
Configure Request View – Place an alert in				
system tray when new requests (Scheduler				
alerted of incoming remote entry) / set automatic			***************************************	
refresh				
Configure Request View – Add Fields				
Configure Request View – Remove Fields				
Configure Request View – Remove All Fields				
Configure Request View – Apply Filter				
Waitlist Request View – Refresh screen for data				
display				
Waitlist Details – Verify data and window sizing				
Waitlist Request View - Receive lock message				
when multiple users attempt to access the same				
request				
Waitlist Request View – View Waitlist Details – scroller arrows				
Waitlist Request View - Waitlist Details window is movable and resizable				
Waitlist Request View - Waitlist Details - All tabs				

II. Business System Minimum	Yes	9	N/A	Notes
Requirements				
display valid, complete and visible data				
Waitlist Request View - Hook Waitlist Request to Appointment Book/Central Scheduling screens and book case				
Waitlist Request View - Update all demographic on a Request (Update Demo button)				
Waitlist Request View - Update specific demographics on a Request (Update Demobutton)				
Waitlist Request View - Reject/Hold Request w/comments				
Waitlist Request View - Cancel/Soft delete Request w/comments (cancel request button)				
Waitlist Request View — Cancel Case/Appointment to Web Provider Access Module				
Waitlist Request View - Adjust data columns				
Waitlist Request View – resize work area for additional lines				
Waitlist Request View - Create/Merge New Patient (New Demo button)				
Waitlist Request View —Create/Merge Account information (New Account button)				
Waitlist Search View - Adjust data columns				
Waitlist Search - View Deleted Records				
Configure Request View – Apply Filters to all available filters and verify appropriate display				
Configure Request View – Reset Filters removes current values				
Configure Request View – apply Start Date to all date fields				
Configure Request View – apply Stop Date to all date fields				
Configure Request View – apply Start / Stop Date				

II. Business System Minimum	Yes	N _o	N/A	Notes
Requirements				
to all date fields				
Scheduler > Waitlist				
Enter Patient Demographic Information				
Save Waitlist with Save icon and hotkeys				
Schedule Cancel Request and Schedule				
Reactivate Request				
Schedule Cancel Waitlink and Schedule				
Keactivate Waitlink				
Insert and Delete Procedures				
Open Edit Procedure (F11 or right mouse menu)				
Create and Edit Account Number				
Print Waitlist Report				
Use Help Contents from Menu Bar				
Scheduler>Case Info>Edit Scheduled Case				
Populate Post Case and save				
Modify a saved Record; verify data save				
Add apiece of Equipment that has a billing				
Number and Charge amount (later perform in				
Nevering Maximizer) Delete Sub Procedures				
Delete Staff				
Delete Inventory, Instruments, Implants, and SMD				
Delete Instruments and Equipment				
Add and Delete Comments				
Use Help Contents from Menu Bar				
Case View (Gant Chart) with accurate data				
Change Account number and save				
All Editable Data Entry fields; verify data saved				
Perform Lookups and Drop down data selections				
Perform Date and Time Lookups				

II. Business System Minimum	Yes	9	N/A	Notes
Requirements				
Date and Time Entry Validation on Save of record				
Adjust screen size and holds per user login				
Expand Trays Manual and Upload Case Tray Usage				
Enter and revise data in editable fields				
Insert, Insert After, Delete, Delete all in work				
Verify Column Sort accuracy Ascending /				
Descending; holds per user				
Edit Sub Procedure fields on Summary screen				
(incision date/time, closure date/time, Anestnesia Agent/Type, Pre/Post ICD9 codes)				
Procedure Description - View of 255 characters				
Pre Case / Post Case Diagnosis View of 255				
Cilaraciers				
CPT Code & Modifier – Horizontal Scrolling available				
Complete Validation Check Box Post Case				
Summary screen – verify message to user if case				
accessed after save and complete				
Add, Delete and Modify Sub Procedures				
Verify unable to Delete on Main Procedure				
Verify all Post Case Data Entry				
Alter main and sub procedures – keep usage and verify				
Alter main and sub procedures – reload usage				
and verify				
Insert data on staff/room and usage tabs without overwriting existing data rows			***************************************	
Insert data on staff/room and usage tabs with				
Modify main procedure successfully				
Perform each lookup on Usage tab - ID field				

II. Business System Minimum	Yes	No	N/A	Notes
Requirements				
column and pull to Usage work area				
Post Case Info-Add Non Scheduled Case				
Lookup & select Patient, Room, Room Group, Provider, Procedure . Enter Start Date and Start				
Time				
Save record				
Add/Delete rows in Sub Procedure Area				
Scheduler > Post Case Info > Assign Usage to				
a Day's Cases				
Assign or Cancel				
Scheduler > Post Case Info > Case				
Preferences				
Look Up Case #				
Add/Delete Inventory and Instruments				
Add/ Delete Notes				
Save Case Preference Card				
Reset Case Preference to Its Original Status				
Print Case Preferences				
Use Help Contents from Menu bar				
Preserve Case Specific Notes check box				
Scheduler > Views				
Week at a Glance: Lookup Staff, Room and				
Equipment weekly schedules				
Patient Schedule: Lookup and select Patient				
Print Department Patient Schedule Report				
Room Group Schedule: Select date and Room Group				
Staff Group Schedule: Select date and Staff Group				
Equipment Group Schedule: Select date and Equipment Goup				
Booking Audit Trail: Select Case number				

Requirements View Only Appointment Book: Salect date, drag case to work area to review data. Scheduler > Print Scheduler Reports Admission from for a Case and Admission Report Carcel Reason Custom Reports - Select Custom report to print Daily Room and Staff Schedule Dept. Appt Lists 4 different reports - All and Specific Medical Record Pull List and MR Pull Slip Patient Record Pull List and Schedule Platent Registration Lists and Schedule Platent Registration Lists and Schedule Platent Registration Lists and Schedule Preference Cards - Case Specific and for a Day's Case Preference Cards - Case by Provider Preference Cards - Case by Provider Preference for a Day's Cases Preference for a Day's Cases Preference for a Day's Case by Provider Preference for Day Cases by Provider Preference for a Day's Case by Provider Preference for Surgeries Reason for Visit Resource Group Schedules Reason for Visit Resource Group Schedules Schedule Activity Schedule Surgeries Schedule Print Document Modify existin Document Modify existin Document	II. Business System Minimum	Yes	S N	N/A	Notes
View Only Appointment Book: Select date, drag Scheduler > Print Scheduler Reports Admission from for a Case and Admission Report Answer Reports Specific & All Patients Cancel Reason Custom Reports - Select Custom report to print Daily Room and Staff Schedule Delix Appt Lists 4 different reports - All and Medicals Record Pull List and MR Pull Slip Patient Record Pull List and Schedule Preference Cards - Case Preference Card Preference Cards - Case Preference Card Preference Cards - Case Preference Card Preference for Day's Cases by Provider Procedure For Day's Cases by Provider Preference for Day's Cases by Provider Preference for Day's Cases by Provider Procedure Since Boy Cases Procedure For Day's Cases by Provider Procedure For Day's Cases by Provider Procedure For Day's Cases by Provider Procedure Since Boy Cases Procedure For Day's Cases Procedure Since Boy Cases Procedure For Day Cases Procedure Since Boy Cases Procedure For Day Cases Scheduler Day Day Cases Procedure For Day Cases Pr	Requirements				
Scheduler > Print Scheduler Reports Admission form for a Case and Admission Report Answer Reports Specific & All Patients Cancel Reason Custom Reports - Select Custom report to print Daily Room and Staff Schedule Dept. Appt Lists 4 different reports - All and Specific Dept. Appt Lists 4 different reports - All and Specific Dept. Appt Lists and Schedule Pick Lists - Case Specific and for a Day's Case Preference Cards - Cases Preference Cards - Cases by Provider Preference Cards - Cases by Provider Print Recovery Room log Reason for Visit Resource Group Schedules and Schedules Resource Group Schedules and Schedules Room Productivity Report Resource Group Schedules and Schedules Schedule Long Surgeries Scheduler > Print Document Wolft vests # and Select Document Type and	View Only Appointment Book: Select date, drag				
Admission form for a Case and Admission Report Answer Reports Specific & All Patients Cancel Reason Carcel Reason Carcel Reason Cauton Reports — Secific Schedule Dept. Appt Lists and different reports — All and Dept. Appt Lists and Schedule Dept. Appt Lists and Schedule Pick Lists — Case Specific and for a Day's Case Preference Cards — Case Specific and for a Day's Case Preference Cards — Case Specific and for a Day's Case Preference Cards — Case Specific and for a Day's Case Preference Cards — Case Specific and for a Day's Cases Preference Cards — Case Specific and for a Day's Cases Preference Cards — Case Specific and for a Day's Cases Preference Cards — Case Specific and for a Day's Cases Preference Cards — Case Specific and for a Day's Cases Preference Cards — Case Specific and for a Day's Cases Preference Cards — Case Specific and for a Day's Cases Preference Cards — Case Specific and for a Day's Cases Preference Cards — Case Specific and for a Day's Cases Preference Cards — Case Specific and for a Day's Cases Preference Cards — Case Specific and for a Day's Cases Preference Cards — Case Specific and for a Day's Cases Preference Cards — Case Specific and for a Day's Cases Preference Cards — Case Specific and for a Day's Cases Preference Cards — Case Specific and for Day's Cases Preference Cards — Case Specific and for Day's Cases Preference Cards — Case Specific and for Day's Cases Preference Cards — Case Specific and for Day's Cases Schedule Day Logs Schedule Day Logs Schedule Day Logs Schedule Day Logs Schedule Park Print Document Type and Morit's existing Document Mority — Askish on Document Mority — Askish on Document	case to work area to review data.				
Admission form for a Case and Admission Report Answer Reports Specific & All Patients Cancel Reason Custom Reports - Select Custom report to print Daily Room and Staff Schedule Dept. Appt Lists 4 different reports - All and Specific Medical Record Pull List and MR Pull Slip Patient Esord Pull List and Schedule Protection and Staff Schedule Protection Care Record Pull Lists and Schedule Protection Care Specific and for a Day's Case Preference Cards - Case Specific and for a Day's Case Preference Cards - Case Preference Card Preference Cards - Case Specific and for a Day's Case Preference Cards - Case Specific and Specific	Scheduler > Print Scheduler Reports				
Answer Reports Specific & All Patients Caroner Reason Custom Reports - Select Custom report to print Daily Room and Staff Schedule Dept. Appt Lists 4 different reports - All and Specific Specific and the Pull Slip Patient Registration Lists and Schedule Preference Cards - Case Specific and for a Day's Case Preference Cards - Case Preference Card Preference Grads - Case Preference Card Preference Grads - Case Specific and for a Day's Cases Preference for a Day's Cases Preference for Day's Cases Preference Activity Resource Group Schedules and Schedules Room Productivity Report Schedule Daily Logs Schedule Short Surgeries Scheduler Documents Pull up Case # and Select Document Type and Surfect Document Scheduler Document Scheduler Document Scheduler Short Surgeries	Admission form for a Case and Admission Report				
Cancel Reason Custom Reports - Select Custom report to print Daily Room and Staff Schedule Debt. Appt Lists 4 different reports - All and Specific Medical Record Pull List and MR Pull Slip Patient Registration Lists and Schedule Prick Lists - Case Specific and for a Day's Case Prickenance Cards - Case Preference Card Preference Cards - Hospital Preference Card Case Rpt Resources Card Schedules and Schedules Reason for Visit Resource Group Schedules and Schedules Room Productivity Report Schedule Long Surgeries Schedule Activity Schedule Short Surgeries Scheduler > Print Document's Pull up Case # and Select Document Type and Select Document Mordiff vaskinn Occument	Answer Reports Specific & All Patients				
Custom Reports – Select Custom report to print Daily Room and Staff Schedule Dept Appt Lists A different reports – All and Specific Medical Record Pull List and MR Pull Slip Patient Escort Patient Escort Patient Escort Preference Cards - Case Specific and for a Day's Case Preference Cards - Case Specific and for a Day's Case Preference Cards - Case Preference Card Preference Cards - Case Specific and for a Day's Case Ryt Preference Cards - Case Specific and Procedure Preference for a Day's Cases by Provider Print Recovery Room log Procedure Time by Provider and Procedure Reason for Visit Resource Group Schedules and Schedules Reason for Visit Schedule Log Surgeries Schedule Daily Logs Schedule Activity Schedule Short Surgeries Scheduler Activity Pull up Case # and Select Document Type and Morlin existing Document Morlin existing Document Morlin existing Document	Cancel Reason				
Delit, Room and Staff Schedule Dept. Appt Lists 4 different reports – All and Specific Medical Record Pull List and MR Pull Silp Patient Escort Patient Registration Lists and Schedule Pick Lists – Case Specific and for a Day's Case Preference Cards - Hospital Preference Card Case Rpt Case Rpt Preference Cards - Hospital Preference Card Case Rpt Preference Cards - Hospital Preference Card Case Rpt Preference for a Day's Cases Preference Cards - Hospital Preference Card Case Rpt Preference for a Day's Cases Preference Cards - Hospital Preference Case Rpt Preference for a Day's Cases Preference Cards - Hospital Preference Case Rpt Preference for a Day's Cases Preference Cards - Hospital Preference Case Rpt Preference Cards - Hospital Preference Case Rpt Reason for Visit Resource Group's Cases Provider and Schedules and Schedules Schedule Activity Schedule Short Surgeries	Custom Reports – Select Custom report to print				
Dept. Appt Lists 4 different reports – All and Specific Specific Specific All and MR Pull Slip Patient Record Pull List and MR Pull Slip Patient Record Pull List and MR Pull Slip Patient Record Pull List and Schedule Procedure Card Prick Lists – Case Specific and for a Day's Case Preference Card Prefe	Daily Room and Staff Schedule				
Medical Record Pull List and MR Pull Slip Patient Escort Patient Escort Patient Registration Lists and Schedule Pick Lists - Case Specific and for a Day's Case Preference Cards - Case Preference Card Case Rpt Case Rpt Preference for a Day's Cases Preference for a Day's Cases Preference for Day's Cases Preference for a Day's Cases Pre	Dept. Appt Lists 4 different reports – All and Specific				
Patient Escort Patient Registration Lists and Schedule Pick Lists – Case Specific and for a Day's Case Preference Cards – Rose Preference Card Preference Cards – Hospital Preference Card Case Rpt Preference for a Day's Cases Preference for a Day's Cases by Provider Print Recovery Room log Procedure Time by Provider and Procedure Reason for Visit Resource Group Schedules and Schedules Room Productivity Report Scheduler Activity Scheduler Activity Scheduler Print Documents Schedule Coase # and Select Document Modify existing Document Modify existing Document	Medical Record Pull List and MR Pull Slip				
Pick Lists – Case Specific and for a Day's Case Pick Lists – Case Specific and for a Day's Case Preference Cards - Anospital Preference Card Case Rpt Preference for a Day's Cases by Provider Preferences for Day's Cases by Provider Print Recovery Room log Procedure Time by Provider and Procedure Reason for Visit Resource Group Schedules and Schedules Room Productivity Report Schedule Daily Logs Schedule Daily Logs Schedule Daily Logs Schedule Parint Documents Schedule Short Surgeries Schedule Short Surgeries Schedule Short Surgeries Schedule Short Surgeries Schedule Daily Logs Schedule Daily Logs Schedule Daily Logs Schedule Short Surgeries Schedule Short Surgeries Schedule Comment Type and Pull up Case # and Select Document Type and Rodify existing Document	Patient Escort				
Pick Lists – Case Specific and for a Day's Case Preference Cards – Case Preference Card Preference Cards – Case Preference Card Case Rpt Case Rpt Preferences for Day's Cases Preferences for Day's Cases Preferences for Day's Cases by Provider Print Recovery Room log Procedure Time by Provider and Procedure Reason for Visit Resource Group Schedules and Schedules Room Productivity Report Schedule Daily Logs Schedule Long Surgeries Scheduler > Print Documents Pull up Case # and Select Document Type and select Document Modify existing Document	Patient Registration Lists and Schedule				
Preference Cards - Case Preference Card Preference Cards - Hospital Preference Card Case Rpt Case Rpt Preference for a Day's Cases Preference for a Day's Cases Preferences for Day's Cases by Provider Print Recovery Room log Procedure Time by Provider and Procedure Reason for Visit Resource Group Schedules and Schedules Room Productivity Report Scheduler Activity Scheduler Activity Scheduler Activity Scheduler Sont Surgeries	Pick Lists - Case Specific and for a Day's Case				
Preference Cards - Hospital Preference Card Case Rpt Preference for a Day's Cases Preference for a Day's Cases Preference for Day's Cases Preference for Day's Cases by Provider Print Recovery Room log Procedure Time by Provider and Procedure Reason for Visit Reason for Visit Resource Group Schedules and Schedules Resource Group Schedules and Schedules Resource Group Schedules and Schedules Scheduler Activity Schedule Long Surgeries Schedule Long Surgeries Schedule Short Surgeries	Preference Cards -Case Preference Card				
Preference for a Day's Cases Preference for a Day's Cases Preferences for Day's Cases by Provider Print Recovery Room log Procedure Time by Provider and Procedure Reason for Visit Resource Group Schedules Room Productivity Report Scheduler Activity Scheduler Activity Schedule Long Surgeries Scheduler Short Surgeries	Preference Cards -Hospital Preference Card				
Preference for a Day's Cases Preferences for Day's Cases by Provider Print Recovery Room log Procedure Time by Provider and Procedure Reason for Visit Resource Group Schedules Resource Group Schedules Room Productivity Report Scheduler Activity Scheduler Activity Schedule Long Surgeries Schedule Long Surgeries Scheduler > Print Documents Pull up Case # and Select Document Modify existing Document	Case Rpt				
Preferences for Day's Cases by Provider Print Recovery Room log Procedure Time by Provider and Procedure Reason for Visit Resource Group Schedules and Schedules Room Productivity Report Scheduler Activity Schedule Long Surgeries Schedule Long Surgeries Scheduler > Print Documents Pull up Case # and Select Document Modify existing Document	Preference for a Day's Cases				
Print Recovery Room log Procedure Time by Provider and Procedure Reason for Visit Resource Group Schedules Room Productivity Report Schedule Daily Logs Schedule Long Surgeries Schedule Short Surgeries Schedule Noruments Pull up Case # and Select Document Modify existing Document	Preferences for Day's Cases by Provider				
Procedure Time by Provider and Procedure Reason for Visit Resource Group Schedules and Schedules Room Productivity Report Scheduler Activity Schedule Daily Logs Schedule Long Surgeries Schedule Short Surgeries Scheduler > Print Documents Pull up Case # and Select Document Wodify existing Document Modify existing Document	Print Recovery Room log				
Reason for Visit Resource Group Schedules and Schedules Room Productivity Report Scheduler Activity Schedule Daily Logs Schedule Long Surgeries Schedule Long Surgeries Scheduler > Print Documents Pull up Case # and Select Document Select Document Modify existing Document	Procedure Time by Provider and Procedure				
Resource Group Schedules and Schedules Room Productivity Report Scheduler Activity Schedule Long Surgeries Schedule Long Surgeries Schedule Short Surgeries Schedule Short Surgeries Scheduler > Print Documents Pull up Case # and Select Document Type and select Document Modify existing Document	Reason for Visit				
Room Productivity ReportRoom Productivity ReportScheduler ActivitySchedule Daily LogsSchedule Long SurgeriesSchedule Long SurgeriesSchedule Short SurgeriesSchedule Short SurgeriesSchedule Short SurgeriesScheduler > Print DocumentsPull up Case # and Select Document Type and select DocumentModify existing Document	Resource Group Schedules and Schedules				
Scheduler Activity Schedule Daily Logs Schedule Long Surgeries Schedule Short Surgeries Scheduler > Print Document Pull up Case # and Select Document Type and select Document Modify existing Document	Room Productivity Report				
Schedule Daily Logs Schedule Long Surgeries Schedule Short Surgeries Schedule > Print Documents Pull up Case # and Select Document Type and select Document Modify existing Document	Scheduler Activity				
Schedule Long Surgeries Schedule Short Surgeries Schedule Short Surgeries Schedule > Print Documents Pull up Case # and Select Document Type and select Document Modify existing Document	Schedule Daily Logs				
Schedule Short Surgeries Scheduler > Print Documents Pull up Case # and Select Document Type and select Document Modify existing Document	Schedule Long Surgeries				
Scheduler > Print DocumentsScheduler > Print DocumentPull up Case # and Select DocumentSelect DocumentModify existing DocumentModify existing Document	Schedule Short Surgeries				
Pull up Case # and Select Document Type and select Document Modify existing Document	Scheduler > Print Documents				
Modify existing Document	Pull up Case # and Select Document Type and select Document	-			
	Modify existing Document				

II. Business System Minimum	Yes	9	N/A	Notes
Requirements				
Choose Font/Format for Document				
Print Document Letter				
Controller > Databases				
Create/ Save a new Procedure, Staff, Room,				
Equipment, Protocol Header)				
Update an existing Resource				
Delete a current Resource				
Reactivate a current Resource				
Print Corresponding Report				
Set Privileges (System Preference must be set to				
turn on Privileges)				
Set Time between Procedures		,		
Create, Modify, Delete Resource and Resource				
Group Encumbrances				
Controller > Groups				
Create/ Save a new Group				
Delete a current Group				
Reactivate the deleted Group				
Add a Resource into Scroll Area				
Delete Selected Resource from within Scroll Area				
Delete all Resources from within Scroll Area				
Print Report by Group ID icon				
Create a Procedure Protocol				
Equipment Location				
Controller > SmartRules				
Create Block rule/series using Block Rule Builder				
and use in scheduling				
Modify Block Rules/series using Block Rule Builder and use in scheduling				
Release a portion of a daily/weekly/monthly block				
time using Block Rule Release and schedule				
Delete Block Rules vou created using Block Rule				

II. Business System Minimum	Yes	٩ ٩	N/A	Notes
Requirements				
Wizard and schedule cases				
Use Block History Tab to see the history of the individual block rule modifications				
Controller > Rules				
Create/ Save a New Individual and Group Rule				
and use in scheduling. This could include bermission, replacement, delay rules				
Modify an existing Rule and verify if functioning in				
scheduling				
Print Rules Report				
Controller > Questions				
Create/ Save a new Question				
Modify/ Update an existing Question				
Print Questions Report				
Create/ Save a new Question Map to Staff &/or				
Procedure				
Modify/ Update an existing Question Map				
Delete a Question Map				
Reactivate a current Question Map				
Delete Question created				
Reactivate Question				
Check: Internal Question Indicator (remote users				
will not be asked this question – wealth clients only.)				
Controller > Preferences Setup				
Create/ Save a new Preference Card				
Modify/ Update an existing Preference Card				
Delete a current Preference Card				
Reactivate a current Preference Card				
Copy a Preference Card				
Paste a Preference Card - notes				
Paste a Preference Card – without notes				

II. Business System Minimum	Yes	S N	N/A	Notes
Requirements				
Add a Resource into Scroll Area				
Insert row and add Resource into Resources Scroll Area				
Delete Selected Resource from Resources Scroll Area				
Delete all Resources from Resources Scroll Area				
Add an Item into Inventory Scroll Area				
Insert row and add Item into Inventory Scroll Area				
Delete Selected Item from within Inventory Scroll				
Area				
Delete all Items from within Inventory Scroll Area				
Add Position, Pre-Item, and Post Item Notes				
Modify Position, Pre-Item, and Post Item Notes				
Delete Position, Pre-Item, and Post Item Notes				
Delete a Preference Card				
Provider Preference Card Summary: Create & Modify Card				
Procedure Preference Card Summary: Create & Modify Card				
Preference Card Validation Items Not Used but on Preference Card Report				
Preference Card Validation Items Used but not on Preference Card Report				
Replace Preference Card Item to All Procedures				
Replace Preference Card Item to Specific				
Replace Preference Card Item to Specific				
Surgeon/Procedure				
Print Preference Report; Provider Preferences				
Print Preference Report; Preferences Catalog and Listing				
Controller > Documents				
Create/ Save a new Document				

II. Business System Minimum	Yes	№	N/A	Notes
Requirements				
Modify an existing Document				
Choose Font/Format for Facility Documents				
Reporter > Select, Validate, and Generate Reports				
Select/ Save Reports to Select Group				
Modifiy - Insert/Delete Reports for a Select Group				
Print Corporate Reports Report from Icon				
Use Help Content from Menu bar				
Validate Validate Reports				
Generate the following Reports				
Anesthesia Report				
Cancellation Report				
Infection By Procedure, Service,				
Provider/Procedure Reports				
Service Statistics & Procedures Performed				
Report				
Recoveries In Progress Report				
Resident / Service Volumes & Times Per				
Procedures Reports				
Room Summary Report				
Provider / Service Volumes Report 1				
Procedures Performed				
Reporter > Print Reports				
YTD Error Report				
Post Case Data Checker report				
Case Turnover Report				
Room Utilization Report				
Block Utilization				
Staff Credentialing Report				
Room Statistics Report				
Patient Type room Stats Report				
Major/Minor Room Stats Report				

II. Business System Minimum	Yes	N _o	N/A	Notes
Requirements				
Case Type Room Stats Report				
Wound Class Room Stats Report				
Room Utilization Report				
Provider/Resident Time Per Procedure				
Procedures in Progress Report 2				
Time Per Procedure Report				
Inventory Database				
Create / Save Inventory Header				
Modify Existing Inventory Header				
Copy / Paste Inventory Header				
Delete/ Reactivate Inventory Header				
Print Inventory Items Report				
Print Inventory Section Report				
Use Help Contents from Menu bar				
Create / Save Inventory Detail Record				
Modify Existing Inventory Detail Record				
Copy / Paste Inventory Detail Record				
Delete/ Reactivate Inventory Detail Record				
Print Inventory Detail By Stock Location Report				
Create Instrument Header				
Modify Existing Instrument Header				
Copy/Paste Instrument Header				
Print Instrument Header Report				
Create Instrument Detail				
Modify Existing Instrument Detail				
Copy/Paste Instrument Detail				
Print Instrument Detail Report				
Create /Save Instrument Repair				
Print New Entries Report				
Lookup and select Surgical Tray with and without auto load				
Add content to Scroll area and Save				

II. Business System Minimum	Yes	9 N	N/A	Notes
Requirements				
Print Tray Maintenance Report				
Create Safe Medical Device record – assign to				
Case (Lookup and select from Inventory and Type in)				
Create Safe Medical Device record - non Case	-			
(lookup and select from Inventory and Type in)				
Create Implant record- assign to Case (Lookup				
and select from Inventory and Type In)				
Create Implant record – non Case (Lookup and				
select from Inventory and Type in)				
Verify Post Case operations and usage for SMD				
and Implants.				
Print SMD/Implant Log Report				
Print Non Case SMD/Implant Report				
Inventory > Non-Case Usage Assigning and				
Hacking				
Create /Modify/Save Usage Record				
Delete Usage Record				
Confirm Non-Case Usage Tracking				
Inventory > Purchase Orders				
Auto Generate/Cancel Auto Generate PO				
Edit/Receive /Save PO				
Change /Cancel Change New Purchase Order Supplier				
Manual Generate/Cancel Manual Generate				
Purchase Order				
Print/Cancel New Purchase Orders				
Reprint/Cancel Purchase Orders				
Close Open /Cancel Close Open Purchase Order				
Purchase Order Tracking				
Receive by Item, Purchase Order #, & Item and				
Stock Location		- American Company		

II. Business System Minimum	Yes	S N	N N	Notes
Requirements				
Shipping by PO#, Item #, Item and Stock Location, & by All 3				
Return/Cancel Return Material Authorization				
Transfer/Cancel Transfer of Stock Between Locations				
Print Single Purchase Order Report				
Print New Purchase Order Report				
Print Open Purchase Order Summary				
Print Return Material Authorization Reports				
Print Transfer Between Stock Locations Reports				
Print Automatic Stock Transfer Reports				
Inventory>Counts				
Edit / Save Physical Inventory Data				
Load Physical Inventory Data to System				
Compute Inventory ABC Calculations				
Generate Monthly Invventory Usage				
Perform, Edit, & Load EOQ Calculations				
Calculate, Edit, & Update Estimated Delivery Davs				
Calculate Forecast Usage				
Print Physical Inventory Full, Concise, & Summary				
Print EOQ and ROP Recommendations				
Print Estimated Delivery Days Reports				
Print Forecast Reports				
Print Inventory Usage Statistics Report				
Print Provider Inventory Usage Report				
Print ABC Classification Report				
Print Cycle Count Report				
Inventory > Maintenance				
Create/ Save Support Files (delete when done if not required)				

II. Business System Minimum	Yes	9 2	N/A	Notes
Requirements				
Edit Existing Support Files				
Print Selected Support File Report				
Create/ Save Charge Cost Ratio Method (delete				
when done if not required)				
Edit Charge Cost Ratio Method				
Print Cost Charge Ratio Report				
Create/ Save Discount Method (delete when				
done if not required)				
Edit Discount Method				
Print Discount Method Report				
Create/ Save a new Supplier				
Update/Delete/Reactivate an existing Supplier				
Print Supplier Listing Report				
Create/ Save a new Supplier Group (delete when				
done if not required)				
Update an existing Supplier Group				
Print Supplier Group Report				
Create/ Save a new Repair Company				
Update/ Delete /Reactivate a Repair Company				
Create/ Save Corporate Group (Inventory				
delete when done if not required				
Update an existing Corporate Group				
Create/ Save a new Inventory Catalog				
Update/ Delete an existing Inventory Catalog				
Reactivate an Inventory Catalog				
Reset/ Cancel Reset Inventory Counts				
Inventory > Print Inventory Reports				
Print Patient Charges For a Case & For a Day's				
Print Inventory Turnover By Item Report				
Print Materials Planning Report				
Print Excess Stock Reports				
Print Inventory Count Sheets Reports				

II. Business System Minimum	Yes	9	N/A	Notes
Requirements				
Print No Movement Reports				
Print Cost Per Procedure Report				
Print Preference Card Cost Comparison Report				
Print Procedure Cost By Provider Reports				
Print Cost By DRG & Cost Per Case By DRG				
Reports				
UTILITIES -				Application Administrator Only
Utilities > User Preferences				
Create a User Preference and verify the log in				
setting				
Utilities > System Preferences User ID:			-	Application Administrator Only
DEFAULT Set Preferences based on Facilities				
Preferences - Test settings when complete				
Print System Preference Report				
Utilities > Restore Default Screen Settings				
Restore screen setting – scrolling editor column				
widths				
Restore screen setting – lookup column widths				
Restore screen setting -scrolling editor sizes				
(screen size)				
Restore screen setting –tab control sizes				
(screens on a tab)				
Restore screen setting –audit trail viewer column widths				
Restore screen setting – resizable windows				
Restore screen setting – Slot View Column				
widths				
Restore screen setting – Shortcut Bar position				
Restore screen setting – Shortcut Bar contents				
Utilities > Shortcut Bar				
Customize Shortcut Bar by adding shortcuts				
Customize Shortcut Bar by removing shortcuts				
Customize Shortcut Bar by adding a group				

II. Business System Minimum	Yes	9	N/A	Notes
Requirements				
Customize Shortcut Bar by renaming a group				
Customize Shortcut Bar by deleting a group				
Customize Shortcut Bar by moving a group up				
Customize Shortcut Bar by moving a group down				
Customize Shortcut Bar by renaming Shortcut				
Customize Shortcut Bar by changing Icon				
Customize Shortcut Bar by moving Icon up				
Customize Shortcut Bar by moving Icon down				
Utilize either Large and Small Icons				
Customize Shortcut Bar by Always Show a				
Startup and to Not Show at Startup				
If not showing Shortcut Bar at startup- Show				
Shortcut Bar by menu selection				
Shortcut Bar is Dockable on screen sides				
Shortcut Bar is Floatable over other screens				
Shortcut Bar is Sizable				
Utilities > Toolbar				
Open Screen of Choice or Controller/Staff				
Customize Toolbar by Adding & Removing				
Customize Toolbar – verify scroll bar appears				
when needed				
Customize Toolbar by moving button Up & Down				
Customize Toolbar by Restoring Defaults				
Codes A-F, G-L, M-R, S-Z				
Create/ Save a new Code (Allergy)				
Modify/ Update an existing Code				
Delete a Code (One created for this test)				
Print Report of Selected Code				
Payor Plans				
Create/ Save a new Plan (delete when done if not required)				
Modify/ Update an existing Plan				
hearing and recommendation of the recommenda				

II. Business System Minimum	Yes	% N	N/A	Notes
Requirements				
Recreate Bitmap				
Run Recreate Bitmaps for 2 months				
Utilities -> Average Times				
Choose Method of Calculation				
Generate				
Print				
Security- User Profile				
Create/Save a new User Profile				
Update an existing User Profile				
View Expired Users				
Change User Password				
Password never expires on specific User ID				
User must change password at next login				
Suspend User ID				
Change Effective Date				
Change Expiration Date				
Enter / save Email and Contact Number				
Exit Screen				
Utilities > Security> Security & Facility Groups				
Create/ Sayle a new Group (delete when done if				
not required)				
Update an existing Group				
Add an ID into Scroll Area				
Insert an ID into Scroll Area				
Delete Selected Row/ID from within Scroll Area				
Delete all Rows/IDs from within Scroll Area				
Use Help Contents from Menu Bar				
Utilities > Security Profile > Base System				
Lookup a Group ID				
Update an existing Group ID				
Lookup a Command # into Scroll Area				

II. Business System Minimum	Yes	No	N/A	Notes
Requirements				
Insert a Row/Command # into Scroll Area				
Delete Selected Row/Command # from within Scroll Area				
Delete all Rows/Command #s from within Scroll Area				
Utilities >Security > Security Group Procedure Filter				
Lookup & Update a Security Group				
Lookup & bring a Procedure into Scroll Area				
View Deleted Records/ Multiple Select in				
Activate Advanced Procedure Filtering check box				
Deactivate Advanced Procedure Filtering turn off check box				
Insert a Row/Procedure into Scroll Area				
Delete Selected Row/Procedure from within Scroll Area				
Delete all Rows/Procedures from within Scroll				
Heat Security > Field I evel Security				
Select Security Group				
Grant/Remove View Only Access to security				
Grant/Remove No Access to security group				
Utilities > Security > Report Security				
Select Security Group				
Block/Remove Block for Reports				
Utilities > Change IDs				
Select record to change				
Lookup Current ID-multi select in Scroll Area				
Insert a Row/Procedure into Scroll Area				
Delete Selected Row/Procedure from within Scroll Area				
			7	

II. Business System Minimum	Yes	S S	N/A	Notes
Requirements				
Delete all Rows/Procedures from within Scroll				
Save Change ID				
Utilities > Change ID > Merge FMRN & Facility				
Selectt Patient Record to change				
Lookup Current & New Account # to Merge & Save				
Lookup Current & New Patient ID to Merge & Save	-			
Delete Selected Row/Account # from within Scroll Area				
Delete all Rows/Account #s from within Scroll Area				
Utilities > Change ID > Change Short Names, Descriptions, & Type				
Select record to change				
Lookup Current Short Name, Description & Type and enter New Short Name Description & Type and Save			-	
Insert a Row Short Name, Description, or Type into Scroll Area				
Delete Selected Row/Short Name, Description, Type in Scroll Area				
Delete all Rows/ Short Name, Description, or Type from Scroll Area				
Utilities > Active User Monitor				Active User Monitor Console is only supported on Windows XP and Win 2000
Place application in Maintenance Mode				
Remove application from Maintenance mode				
Utilities > Change ID . Launch Change ID				
Put System in Maintenacne Mode (remember to set back)				
Merge FMRN & Facility Account #				

Requirements Change Dior ID chase Change ID for ID chase Change Dior ID chase Utilities > Resource Cross Reference Utilities > Reporting Periods Friesal Statu Date would need to be changed in System Preferences first Modify Stat and End Date Histal Statu Change Chang	II. Business System Minimum	Yes	Š	N/A	Notes
	Requirements				
	Change ID for ID chosen				
	Change Short Name for item chosen				
	Utilities > Resource Cross Reference				
	Perform/Report/Print				
	Utilities > Reporting Periods				
ancel escription ne or Description and Bar intor la user Isers e e Auter b Mode (remember to	Fiscal Start Date would need to be changed in				
ancel escription ne or Description and Bar intor I user Isers Base Announcements Bancel Base Announcements Bancel Bancel	System Preferences first				
Setup and Description out Name or Description set Monitor set Monitor to all users to all users to all users to all users chandel user to all users to all users to all users chandel user to all users t	Modify Start and End Date				
Setup and Description out Name or Description ont Menu Bar ck Monitor ck Monitor ser Monitor ser Monitor ser Mode to all users se Mode se Mode ch To User ID ne release Announcements r Guide COMPILER - JSE ONLY enache Mode (remember to	Fiscal Year Cleanup OK/Cancel				
and Description ort Name or Description orn Manu Bar ck Monitor ser Monitor Ser Monitor Ser Monitor Ser Monitor Ser Monitor Ser Monitor Ser Monitor Charles Ser Mode Ser	Utilities > Reports Setup				
ort Name or Description om Menu Bar ck Monitor sh ser Monitor dividual user to all users to all users se Mode rs ch To User ID	Create/Save Report and Description				
ck Monitor ck Monitor ser Monitor ser Monitor dividual users to all users se Mode se Mode ch To User ID	Modify Existing Report Name or Description				
ck Monitor sn ser Monitor dividual user to all users leser se Mode ch To User ID	Use Help Contentsfrom Menu Bar				
ser Monitor dividual user to all users se Mode ch To User ID ch To User ID r Guide COMPILER JSE ONLY ser Monitor control user ID ch To User ID	Utilities > Case Lock Monitor				
	View Locked Cases				
	Refresh/Clear Screen				
Send message to individual user Broadcast message to all users Disconnect Single User Disconnect All Users Activate Maintenance Mode Delete Inactive Users Relogin Switch Cancel Switch To User ID ON LINE HELP Locate & Open Tour Guide GLOBAL RULE COMPILER - Administrator USE ONLY Put System in Maintenacne Mode (remember to	Utilities > Active User Monitor				Active User Monitor Console is only supported on Windows XP and Win 2000
Broadcast message to all users Broadcast message to all users Disconnect Single User Bisconnect All Users Activate Maintenance Mode Belete Inactive Users Relogin Belete Inactive Users Switch/ Cancel Switch To User ID Belete Inactive Users ON LINE HELP Belete Inactive User ID Locate & Open Online release Announcements Belete Inactive User ID Locate & Open Tour Guide Belete Inactive Use ONPILER - Administrator USE ONLY Put System in Maintenacne Mode (remember to But System in Maintenacne Mode (remember to	Send message to individual user				
Disconnect Single User Disconnect All Users Disconnect All Users Activate Maintenance Mode Activate Maintenance Mode Belete Inactive Users Relogin Switch To User ID ON LINE HELP Locate & Open Online release Announcements Locate & Open Online release Announcements Locate & Open Tour Guide CLOBAL RULE COMPILER Administrator USE ONLY Administrator USE ONLY Put System in Maintenache Mode (remember to Put System in Maintenache Mode (remember to)	Broadcast message to all users				
Disconnect All Users Disconnect All Users Activate Maintenance Mode	Disconnect Single User				
Activate Maintenance Mode Activate Maintenance Mode Delete Inactive Users Relogin Relogin Switch / Cancel Switch To User ID ON LINE HELP Locate & Open Online release Announcements Locate & Open Online release Announcements Locate & Open Tour Guide Locate & Open Tour Guide Administrator USE ONLY Administrator USE ONLY Administrator USE ONLY Put System in Maintenache Mode (remember to Put System in Maintenache Mode (remember to)	Disconnect All Users				
Delete Inactive Users Delete Inactive Users Relogin Administrator USE ONLY Switch Cancel Switch To User ID ON LINE HELP ON LINE HELP Cocate & Open Online release Announcements Locate & Open Tour Guide Cacate & Open Tour Guide GLOBAL RULE COMPILER – Administrator USE ONLY Administrator USE ONLY Put System in Maintenacne Mode (remember to Put System in Maintenacne Wode (remember to)	Activate Maintenance Mode				
ReloginSwitch Cancel Switch To User IDCon LINE HELPON LINE HELPCoate & Open Online release AnnouncementsCoate & Open Tour GuideLocate & Open Tour GuideCLOSAL RULE COMPILER - Administrator USE ONLYAdministrator USE ONLYAdministrator USE ONLYPut System in Maintenacne Mode (remember toDut System in Maintenacne Mode (remember to	Delete Inactive Users				
Switch/ Cancel Switch To User ID ON LINE HELP Locate & Open Online release Announcements Locate & Open Tour Guide CLOBAL RULE COMPILER – Administrator USE ONLY Put System in Maintenacne Mode (remember to	Relogin				
ON LINE HELPLocate & Open Online release Announcements	Switch/ Cancel Switch To User ID				
Locate & Open Online release Announcements Locate & Open Tour Guide CLOBAL RULE COMPILER – Administrator USE ONLY Put System in Maintenacne Mode (remember to	ON LINE HELP				
Locate & Open Tour Guide GLOBAL RULE COMPILER – GLOBAL RULE COMPILER – Administrator USE ONLY Put System in Maintenacne Mode (remember to	Locate & Open Online release Announcements				
GLOBAL RULE COMPILER – Administrator USE ONLY Put System in Maintenacne Mode (remember to	Locate & Open Tour Guide				
Put System in Maintenacne Mode (remember to	GLOBAL RULE COMPILER – Administrator USE ONLY				
	Put System in Maintenacne Mode (remember to				

II. Business System Minimum	Yes	^o N	N/A	Notes
Requirements				
set back)				
Compile				
All Rules				
Resource Specific Rules				
Resource Group Specific Rules				

SYSTEM SOFTWARE

I. BASELINE APPLICATION

Contractor shall provide and install at each County Facility the following Baseline Application Components in order to meet the Functional Requirements:

A. Core Application

- 1. Base ORSOS Component
 - a. Controller
 - b. Scheduler
 - c. Inventory
 - d. Management Reports
 - e. 50 Concurrent Users
 - f. Three Appointment Book
- 2. Additional ORSOS Components
 - a. Corporate Reporting Module Groups 2
 - b. Perioperative Charting
 - c. Big Board

B. Baseline Customizations

- 1. Baseline Customizations
- 2. Baseline Interfaces
 - a. Demographics Interface Suite including ADT/MPI Import and the Demographics Export
 - b. Revenue Maximizer with Charge Interface
 - c. Inventory Item File Import
 - d. Issues Export
 - e. Purchase Order Import
 - f. Schedules Export
 - g. Case Mix Export
 - h. Executive Console

C. Application Third Party Software

- 1. Crystal Reports, Professional Version five (5) Concurrent Users
- 2. Integration Server up to eight (8) interface threads; subject to the terms and conditions set forth in Schedule A.2.2 (Integration Server Terms and Conditions)
- 3. Business Objects Premium (BOE) Pack of Ten (10) Named Users; subject to the terms and conditions set forth in Schedule A.2.2 (Business Objects Premium Terms and Conditions)

II. THIRD PARTY SOFTWARE

The following Third Party Software programs are required and approved by Contractor for use with the Application Software in accordance with Subtask 4.3 (Recommend and Analyze Third Party Software) of Exhibit A.1 (Statement of Work – Required Tasks):

- 1. Oracle
- 2. Windows 2003 Server

III. THIRD PARTY PRODUCTS

The following Third Party Products provided by Third Party Vendors, if acquired by County from Contractor as Additional Software pursuant to the terms of this Agreement, are recommended and approved by Contractor for use with the Application Software in accordance with Subtask 4.3 (Recommend and Analyze Third Party Software) of Exhibit A.1 (Statement of Work – Required Tasks):

- 1. ORSOS Anesthesia Information System powered by DocuSys
- 2. ORSOS Patient Flow powered by Perioptimum

SCHEDULE A.2.1

INTEGRATION SERVER TERMS AND CONDITIONS

Additional Terms and Conditions Pertaining To Per-Se Integration Server For Use With The Base ORSOS Software

THE FOLLOWING ADDITIONAL TERMS AND CONDITIONS SHALL APPLY COUNTY'S USE OF THE QUOVADX INTEGRATION PRODUCT AS PART OF THE PER-SE INTEGRATION SERVER LISTED IN ATTACHMENT A.2.

1. Grant of License and Use. The QuoVadX Integration Product is provided to County as a nonexclusive and nontransferable license and may be used by County only in conjunction with the Contractor's Baseline Application listed in Attachment A.2 to the Agreement. Contractor will deliver in accordance to this Agreement to each County Facility the object code for the QuoVadX Integration Product in machine readable form and will include one (1) copy of the related documentation and other materials which are regularly furnished by QuoVadX. The term of the license for the QuoVadX Integration Product shall be for a period of ninety-nine (99) years from the effective date of the Agreement unless earlier terminated. Each license of the QuoVadX Integration Product will be restricted to use of a single copy of the QuoVadX Integration Product for County's own internal use at the County Facility listed in Attachment A.6.

County may permanently transfer the QuoVadX Integration Product to another County Facility by providing written notice to Contractor. By notifying Contractor when a County Facility is temporarily inoperative, the QuoVadX Integration Product may be used at a single contingency backup computer center on an interim basis until such time as the County Facility is returned to an operational status whereupon County will promptly return the QuoVadX Integration Product to the County Facility.

2. Proprietary Rights. County acknowledges that the QuoVadX Integration Product has been and will be developed at great expense to Contractor, that the QuoVadX Integration Product is confidential and that Contractor has and will have exclusive proprietary and other rights in the QuoVadX Integration Product including, but not limited to, patent, copyright, trademark, service mark, trade secret and trade name rights (collectively called the "Proprietary Rights"). Accordingly, County will protect the Proprietary Rights to the fullest extent possible under the law and will take such precautions with respect to the QuoVadX Integration Product and the Proprietary Rights as are taken by County to protect its own confidential information and proprietary rights. County acknowledges that no title or ownership of the QuoVadX Integration Product or any component thereof is being transferred to County by this Agreement. County agrees to advise its employees and agents of the confidential and proprietary nature of the QuoVadX Integration Gateway and of the restrictions imposed by this Agreement and agrees to confine access to County's employees in the ordinary course and scope of their employment by County.

To the extent required for use of the QuoVadX Integration Product in the operation of County's business, County may disclose certain documentation pertaining to the QuoVadX Integration Product to (i) persons who are employed as auditors by a public accounting firm or by a federal or state agency, (ii) third parties who utilize the QuoVadX Integration Product in connection with data processing services obtained from County, and (iii) third parties when they are on County's premises for purposes legitimately and specifically related to County's use of the QuoVadX Integration Product in the operation of its business. Such right of disclosure is conditioned upon County advising each such party that the QuoVadX Integration Product disclosed is confidential and proprietary.

The provisions of this Section shall apply to the QuoVadX Integration Product as delivered by Contractor or as modified or otherwise enhanced by Contractor or QuoVadX and to any proprietary material and information regarding the QuoVadX Integration Product that has been given to County prior to or after the effective date of this Agreement. The provisions of this Section will survive the expiration or termination of this Agreement or any License created hereunder. County agrees to notify Contractor immediately of the possession, use or knowledge of all or part of any QuoVadX Integration Product or related documentation by any person or entity not authorized by this Agreement to have such possession, use or knowledge.

- 3. **Termination**. In addition to the Termination provisions set forth in the Agreement, in the event of a breach by County of the Confidentiality provisions of such Agreement and/or any obligations under Section 2 above, the license to use the QuoVadX Integration Product may be terminated immediately without demand or notice. In addition, the license to use the QuoVadX Integration Product may be terminated by either party if the other party files for bankruptcy, reorganization or receivership or is adjudicated as bankrupt. Upon the termination of any sublicense of the QuoVadX Integration Product as granted under the Agreement, County shall discontinue all use of the QuoVadX Integration Product and destroy or return to Contractor all copies of the QuoVadX Integration Product.
- 4. **Specific Provisions**. County acknowledges that the provisions of the Agreement with respect to Application Third Party Software, Confidentiality, Limitation of Liability, Termination, Assignment, U.S. Government Restricted Rights, and Export of Programs shall apply to the QuoVadX Integration Product.

5. Alteration of QuoVadX Product. Any attempt to alter the QuoVadX Integration Product licensed to County, other than with Contractor's assistance and written direction, shall be at County's sole risk and expense. It is understood by County that by so altering the QuoVadX Integration Product, that the current and subsequent releases of the QuoVadX Integration Product may be rendered unusable.

SCHEDULE A.2.2

BUSINESS OBJECTS PREMIUM TERMS AND CONDITIONS

Product Use Rights for BOE Premium

County agrees not to modify, disassemble, decompile, translate, adapt or reverse engineer the BOE Premium Runtime Product or the report file (.RTP) format;

County agrees not to distribute the BOE Premium Runtime Product to any third party;

County agrees not to use the BOE Premium Runtime Product to create for distribution a product that is generally competitive with Licensor product offerings.

County agrees not to use the BOE Premium Runtime Product to create for distribution a product that converts the report file (.RPT) format to an alternative report file format used by any general-purpose report writing, data analysis or report delivery product that is not the property of the licensor;

County agrees no to use the Business Objects Premium on a rental or timesharing basis or to operate a service bureau facility for the benefit of third parties;

BOE PREMIUM OWNER AND ITS SUPPLIERS DISCLAIM ALL WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING WITHOUT LIMITATION THE WARRANTIES OF MERCHANTIBILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT OF THIRD PARTY RIGHTS. BOE PREMIUM OWNER AND ITS SUPPLIERS SHALL HAVE NO LIABILITY WHATSOEVER FOR ANY DIRECT, OR INDIRECT, CONSEQUENTIAL, INCIDENTAL, PUNITIVE, COVER OR OTHER DAMAGES ARISING UNDER THIS AGREEMENT OR IN CONNECTION WITH THE BOE PREMIUM SOFTWARE.

SYSTEM ENVIRONMENT

Pursuant to terms and conditions specified in this Agreement, including Exhibit A (Statement of Work), all System Software provided by Contractor under this Agreement must be approved by the County and capable of interfacing with System Hardware, as specified in Section II.A (System Hardware) of this Attachment A.3, and operable at the Facility Network, as specified in Section II.B (Facility Network) of this Attachment A.3, in order to meet County's Functional Requirements.

If Contractor determines the System Environment to be inadequate, Contractor shall provide County with a written recommendation pursuant to Subtask 4.2 (Analyze System Environment and Recommend Changes) of Exhibit A.1 (Statement of Work – Required Tasks), which will revise Section II.A (System Hardware) and Section II.B (Facility Network) of this Attachment A.3 accordingly.

I. MINIMUM SYSTEM ENVIRONMENT CONFIGURATION

Contractor shall provide minimum configuration for System Environment, including System Hardware, fail-over system and Facility Network, that will satisfy the System Specifications, including Functional Requirements and System Performance Requirements in accordance with Subtask 4.1 (Specify Minimum System Environment Configuration) of Exhibit A (Statement of Work), which will update this Section I.

II. SYSTEM ENVIRONMENT

A. SYSTEM HARDWARE

Contractor shall analyze the Existing Hardware specifications, as indicated in this Section II.A below, and certify in writing that the Existing Hardware can accommodate, during the term of the Agreement, the System Software, including Third Party Software, to satisfy the System Functional Requirements. If Contractor determines the System Hardware to be inadequate, Contractor shall provide the County with a written recommendation, pursuant to Subtask 4.2 (Analyze System Environment and Recommend Changes) of Exhibit A.1 (Statement of Work – Required Tasks), which will revise this Section II.A accordingly.

The following Existing Hardware was purchased for the County Facilities. Each County Facility has received 2 servers to comply with the System Software requirements. County will configure a fail-over system for the Application Software.

SYSTEM ENVIRONMENT

2		-SYSTEM HARDWARE
EQUIPMENT TYPE	NUMBER OF UNITS	DESCRIPTION
Client/Server	5	Windows 2003 (Interface) Server
Client/Server	10	Oracle 10g/IBM AIX 5.2 (Database) Server
Total Server(s)	15	IBM Model 520, 4 73.4 GB 10,000 RPM Ultra 320 SCSI Disk Drive. 2048 MB DIMMs, 266 MHz DDR SDRAM, 2-way 1.5 GHz processor
Flat Panel	5	IBM 7316-TF3 Rack-Mounted Flat Panel Console Kit
Server Rack, Model T00	5	Rail kit, Rack content specify IBM 520, IBM Rack moundrawer rack kit
Workstation		Standard: Intel Pentium 4, 512K Cache, 512 MB, Non-ECC, 333 MHz DDR, 40 GB Hard Drive, EIDE, 9.5 MM 5400 RPM

B. FACILITY NETWORK

Contractor shall analyze the Facility Network for each County Facility, as indicated in this Section II.B below, and certify in writing that the Facility Network shall, during the term of this Agreement, meet the System Specifications, including System Functional Requirements and Performance Requirements. If Contractor determines the Facility Network to be inadequate or incompatible, Contractor shall provide the County with a written recommendation, pursuant to Subtask 4.2 (Analyze System Environment and Recommend Changes) of Exhibit A.1 (Statement of Work – Required Tasks), which will revise this Section II.B accordingly.

The existing Facility Network infrastructure that the System Software will be using is as follows:

SECT	ION II. A – FACI	LITY NETWORK
TYPE OF NETWORK	NUMBER OF FACILITIES	DESCRIPTION
Ethernet with switched 10/1000	5	Ethernet 10/1000
Ethernet to the Desktop Gigabyte Fiber Ethernet	5	Gigabyte Fiber Ethernet on the backbone
Firewall Cat 5 Horizontal wiring	5	Horizontal wiring for virtual LANS

SYSTEM TRAINING

I. INTRODUCTION

Contractor shall provide pre-implementation System Training, including Train-The-Trainer and End-User training, in accordance with Subtask 10.1 (Provide System Training) of Exhibit A.1 (Statement of Work – Required Tasks) for each County Facility as set forth herein. County and Contractor will utilize each County Facility's Training Room, or at locations as otherwise directed by County.

Contractor shall provide, at a minimum, fifteen (15) Training Sessions, as determined by County. Central Project Team to attend Train the Trainer session with LAC + USC or Olive View Medical Center. Contractor shall customize each Training Session to accommodate Train-The-Trainer and End-User staff, covering those areas that pertain to the business requirement of the specific department and/or section as follows:

MINIMUM NUMBER OF SESSIONS	TYPE OF TRAINING	TRAINING DEPARTMENT/PARTICIPANT GROUP
1	Executive Orientation Training Central Project Team	
		LAC + USC Medical Center
1	Train-The-Trainer (ORSOS)	
1	Train-The-Trainer (ORSOS)	Olive View Medical Center
1	Train-The-Trainer (ORSOS)	Martin Luther King/Drew Med Ctr
1	Train-The-Trainer (ORSOS)	Rancho Los Amigos Nat Rehab Ctr
1	Train-The-Trainer (ORSOS)	Harbor/UCLA Medical Center
1	End-User Training (ORSOS)	LAC+USC Medical Center
1	End-User Training (ORSOS)	Olive View Medical Center
1	End-User Training (ORSOS)	Martin Luther King/Drew Med Ctr
1	End-User Training (ORSOS)	Rancho Los Amigos Nat Rehab Ctr
1	End-User Training (ORSOS)	Harbor/UCLA Medical Center
1	Crystal Report	LAC+USC Medical Center
1	Crystal Report	Olive View Medical Center
1	Crystal Report	Martin Luther King/Drew Med Ctr
1	Crystal Report	Rancho Los Amigos Nat Rehab Ctr
1	Crystal Report	Harbor/UCLA Medical Center

II. SCOPE OF TRAINING

A. TRAIN-THE-TRAINER

Contractor shall provide Train-The-Trainer training for staff designated by County, for each Department/Participant Group (i.e., LAC+USC Medical Center, Olive View Medical Center, Martin Luther King/Drew Medical Center, Rancho Los Amigos National Rehabilitation Center, Harbor/UCLA Medical Center) in accordance with the course outline set forth below.

SYSTEM TRAINING

Contractor shall design each Train-The-Trainer training session to cover subjects geared toward the business function of each individual Department/Participant Group, as indicated in Section I (Introduction) above. Not all Work Flow and Processes subjects/topics may be covered at each individual Training Session.

- 1. Introduction
 - a. Purpose and Utilization of Train-The-Trainer
- 2. Features of the System
- 4. Work Flow and Processes (includes hands on practice)
 - a. Controller
 - b. Scheduler
 - c. Inventory
 - d. Management Reports
 - e. Appointment Book with Demographic Interface
 - f. Revenue Maximizer
 - g. Corporate Reporting Module Groups 2 6
- 5. Reports Crystal Reports
- 6. Question and Answer Session
- 7. Evaluation

B. **END-USER TRAINING**

Contractor shall provide training for end-user staff, designated by each County, Facility per Training Session, in accordance with the course outline set forth below.

Contractor shall design each Training Session to cover subjects geared toward the business function of the Training Department/Participant Group, as indicated in Section I (Introduction) above. Not all Work Flow and Processes subjects/topics may be covered at each individual Training Session.

- 1. Introduction
- 2. Features of the System
- 4. Work Flow and Processes (includes hands on practice)
 - a. Controller
 - b. Scheduler
 - c. Inventory
 - d. Management Reports

SYSTEM TRAINING

- e. Appointment Book with Demographic Interface
- f. Revenue Maximizer
- g. Corporate Reporting Module Groups 2 6
- 5. Reports Crystal Reports
- 6. Question and Answer Session
- 7. Evaluation

POST-IMPLEMENTATION WORK

I. APPLICATION MODIFICATIONS

A. CUSTOMIZATIONS

					Ž.	I I DIVI	Maria		
							DESCRIPTION		CODICINALIZABLE
						DATE	REQUEST		
	,			112000000	Modification)	(Interface,	TYPE		
					PRICE	HIXED	MAXIMUM	WILL WALK TO S	
						DATE	DATE	สตร	
							DATE FACILITY APPROVAL	DELIVERY	
							FACILITY	COUNTY	
						DATE	APPROVAL	COUNTY	The state of

B. ADDITIONAL SOFTWARE

				Mo.	ITEM	
					PRODUCT NAME	
					REQUEST DATE	
				(EXHIBIT B)		
		A STATE OF THE STA		PRICE	FIXED	N. X.
					SUN DATE	arva aas
			-		DATE	DELIVERY
					FACILITY	COUNTY
					Y APPROVAL DATE	COUNTY

POST-IMPLEMENTATION WORK

II. PROFESSIONAL SERVICES

A. CONSULTING SERVICES

					140.	Z	Mari	,	7 37.0
						CONSULTING SERVICE	DESCRIPTION / TYPE OF		(()
						DATE	REQUEST		
					RATE	HOURLY	FIXED		
						HOUKS	NUMBEROF	an man on	
						INCE	ADIGA	IVLOL	
						ļ	DATE	DELIVERY	
							FACILITY	COUNTY	
						DATE	DATE FACILITY APPROVAL	COUNTY	

B. ADDITIONAL TRAINING

		Γ		Τ	T	T			3	
								No.	MA	
								TRAINING	DESCRIPTION / TYPE OF	
								DATE	REQUEST	
							KAID			
1		A.						SESSIONS	MOMBENOR	ao daamin
									and a	- 1
)	DATE	DELIVERY
									FACILITY	COUNTY
								DATE	APPROVAL	COUNTY

COUNTY FACILITIES

I. EXISTING FACILITIES

- 1. Harbor/University of California Los Angeles Medical Center (HUMC)
- 2. Martin Luther King/Drew Medical Center (KDMC)
- 3. Rancho Los Amigos National Rehabilitation Center (RLANRC)

II. NEW FACILITIES

- 1. Olive View/University of California Los Angeles Medical Center (OVUMC)
- 2. Los Angeles County + University of Southern California Medical Center (LAC+USCMC)

I. <u>DELIVERABLES</u>

EXTENDED AMOUNT 1 = DELIVERABLE AMOUNT -10% Deliverable Withhold PAYMENT DATE 2 = Payments are due on the earlier of (i) the completion of the specific Deliverable or (ii) the number of Days specified in the PAYMENT DATE column

A. LAC+USC

DELIVERABLE NUMBER	DELIVERABLE DESCRIPTION	PERCENTAGE OF IMPLEMENTATION COST	DELIVERABLE AMOUNT	EXTENDED AMOUNT ¹	PAYMENT DATE ²
1.1	Proposed Implementation Solution	\$0.00			
1.2	Design Document	0.00			
1.3 (KEY)	Implementation Project Plan	30%	\$74,612.40	\$67,151.16	90 Days
2.1	Status Reports and Meetings	0.00			
3.1	Qualified Contractor's Facility Project	0.00			
4.1	Manager Minimum System Environment Configuration	0.00			
4.2	System Environment Certification	0.00			
4.3	Third Party Software Certification	0.00			
5.1	Deployment Plan	0.00			
5.2	Successfully Installed Baseline Application	30%	\$74,612.40	\$67,151.16	180 Days
7.1	Reliability Test Plan	0.00			
7.2	Integrated Functional Test Plan	0.00)		
7.3	Stress Test Plan	0.00)		
8.1	Reliability Test	0.00	D		
8.2	Integrated Functional Test	0.0	0		
8.3 (KEY)	Stress Test	20%	\$49,741.60	\$44,767.44	220 Days
9.1 (KEY)	Non-Deficient System Production Use	10%	\$24,870.80	22,383.72	2 280 Days
10.1	Trained County Staff	0.0	0		
10.2 (KEY)		109	% \$24,870.80	0 22,383.7	2 330 Day
10.2 (XE1)	TOTAL IMPLEMENTATION COST		\$248,708.0	0	

B. OV-UCLA

DELIVERABLE NUMBER	DELIVERABLE DESCRIPTION	PERCENTAGE OF IMPLEMENTATION	DELIVERABLE AMOUNT	EXTENDED AMOUNT ¹	PAYMENT DATE ²
110112222		COST			
1.1	Proposed Implementation Solution	\$0.00			
1.2	Design Document	0.00			
1.3 (KEY)	Implementation Project Plan	30%	\$74,612.40	\$67,151.16	90 Days
2.1	Status Reports and Meetings	0.00			
3.1	Qualified Contractor's Facility Project Manager	0.00			
4.1	Minimum System Environment Configuration	0.00			
4.2	System Environment Certification	0.00			
4.3	Third Party Software Certification	0.00			
5.1	Deployment Plan	0.00			
5.2	Successfully Installed Baseline Application	30%	\$74,612.40	\$67,151.16	180 Days
7.1	Reliability Test Plan	0.00			
7.2	Integrated Functional Test Plan	0.00			
7.3	Stress Test Plan	0.00			
8.1	Reliability Test	0.00)		
8.2	Integrated Functional Test	0.00)		
8.3 (KEY)	Stress Test	20%	\$49,741.60	\$44,767.44	220 Days
9.1 (KEY)	Non-Deficient System Production Use	10%	\$24,870.80	22,383.72	280 Days
10.1	Trained County Staff	0.0	0		
10.2 (KEY)	System Documentation	10%	\$24,870.80	22,383.72	330 Day
	TOTAL IMPLEMENTATION COST		\$248,708.00		

C. HARBOR-UCLA

DELIVERABLE NUMBER	DELIVERABLE DESCRIPTION	PERCENTAGE OF IMPLEMENTATION COST	DELIVERABLE AMOUNT	EXTENDED AMOUNT ¹	PAYMENT DATE ²
1.1	Proposed Implementation Solution	\$0.00			
1.2	Design Document	0.00			
1.3 (KEY)	Implementation Project Plan	30%	\$56,842.50	\$51,158.25	90 Days
2.1	Status Reports and Meetings	0.00			
3.1	Qualified Contractor's Facility Project Manager	0.00			
4.1	Minimum System Environment Configuration	0.00			
4.2	System Environment Certification	0.00			<u> </u>
4.3	Third Party Software Certification	0.00			
5.1	Deployment Plan	0.00			
5.2	Successfully Installed Baseline Application	0.00			
6.1	Data Conversion and Migration Plan	0.00			
6.2 (KEY)	Successfully Converted and Migrated Data	30%	\$56,842.50	\$51,158.25	365 Days
7.1	Reliability Test Plan	0.00			
7.2	Integrated Functional Test Plan	0.00			
7.3	Stress Test Plan	0.00			
8.1	Reliability Test	0.00			* =
8.2	Integrated Functional Test	0.00			
8.3 (KEY)	Stress Test	20%	\$37,895.00	\$34,105.50	547 Days
9.1 (KEY)	Non-Deficient System Production Use	10%	\$18,947.50	\$17,052.75	607 Days
10.1	Trained County Staff	0.00			
10.2 (KEY)	System Documentation	10%	\$18,947.50	\$17,052.75	730 Days
	TOTAL IMPLEMENTATION COST		\$189,475.00		

D. MLK/DREW

DELIVERABLE NUMBER	DELIVERABLE DESCRIPTION	PERCENTAGE OF IMPLEMENTATION COST	DELIVERABLE AMOUNT	AMOUNT ¹	PAYMENT DATE ²
1.1	Proposed Implementation Solution	\$0.00			
1.2	Design Document	0.00			20.5
1.3 (KEY)	Implementation Project Plan	30%	\$56,842.50	\$51,158.25	90 Days
2.1	Status Reports and Meetings	0.00			
3.1	Qualified Contractor's Facility Project	0.00			
4.1	Manager Minimum System Environment Configuration	0.00			
4.2	System Environment Certification	0.00			
4.3	Third Party Software Certification	0.00			
5.1	Deployment Plan	0.00			
5.2	Successfully Installed Baseline Application	0.00			
6.1	Data Conversion and Migration Plan	0.00			
6.2 (KEY)	Successfully Converted and Migrated Data	30%	\$56,842.50	\$51,158.25	365 Days
7.1	Reliability Test Plan	0.00			
7.2	Integrated Functional Test Plan	0.00)		
7.3	Stress Test Plan	0.00	D		
8.1	Reliability Test	0.0	0		* : : : : : : : : : : : : : : : : : : :
8.2	Integrated Functional Test	0.0	0		
8.3 (KEY)	Stress Test	20%	\$37,895.00	\$34,105.50	547 Day
9.1 (KEY)	Non-Deficient System Production Use	100	\$18,947.50	\$17,052.75	607 Day
10.1	Trained County Staff	0.0	00		
10.2 (KEY) System Documentation	10	% \$18,947.5	\$17,052.75	5 730 Day
	TOTAL IMPLEMENTATION COST		\$189,475.0	0	

E. RLANRC

ELIVERABLE NUMBER	DELIVERABLE DESCRIPTION	PERCENTAGE OF IMPLEMENTATION COST	DELIVERABLE AMOUNT	EXTENDED AMOUNT ¹	PAYMENT DATE ²
1.1	Proposed Implementation Solution	\$0.00			
1.2	Design Document	0.00			
1.3 (KEY)	Implementation Project Plan	30%	\$56,842.50	\$51,158.25	90 Days
2.1	Status Reports and Meetings	0.00			
3.1	Qualified Contractor's Facility Project	0.00			
4.1	Manager Minimum System Environment Configuration	0.00			
4.2	System Environment Certification	0.00			
4.3	Third Party Software Certification	0.00			
5.1	Deployment Plan	0.00			
5.2	Successfully Installed Baseline Application	0.00			1
6.1	Data Conversion and Migration Plan	0.00			
6.2 (KEY)	Successfully Converted and Migrated Data	30%	\$56,842.50	\$51,158.25	365 Days
7.1	Reliability Test Plan	0.00			
7.2	Integrated Functional Test Plan	0.00			
7.3	Stress Test Plan	0.00			
8.1	Reliability Test	0.00)		* cat
8.2	Integrated Functional Test	0.00)		
8.3 (KEY)	Stress Test	20%	\$37,895.00	\$34,105.50	547 Day
9.1 (KEY)	Non-Deficient System Production Use	10%	\$18,947.50	\$17,052.75	607 Day
10.1	Trained County Staff	0.0	0		
10.2 (KEY)	System Documentation	10%	6 \$18,947.50	\$17,052.75	730 Day
	TOTAL IMPLEMENTATION COST		\$189,475.00)	

II. <u>IMPLEMENTATION COST</u>

BASELINE APPLICATION does not include any sales tax that may apply.

	COUNTY	BASELINE	IMPLEMENTATION	IMPLEMENTATION
	FACILITY	APPLICATION ¹	SERVICES	COST
A.	LAC+USC	\$118,003.00	\$130,705.00	\$248,708.00
B.	OV-UCLA	\$118,003.00	\$130,705.00	\$248,708.00
C.	HARBOR-UCLA	\$ 72,220.00	\$117,255.00	\$189,475.00
D.	MLK-DREW	\$ 72,220.00	\$117,255.00	\$189,475.00
E.	RLANRC	\$ 72,220.00	\$117,255.00	\$189,475.00
			IMPLEMENTATION COST FOR ALL COUNTY FACILITIES	\$1,065,841.00

III. MAINTENANCE AND SUPPORT

Annual fees (Maintenance Fees) per each year and the payment terms.

Sixty (60) days prior to expiration of Maintenance and Support services, Contractor shall invoice County for renewal of Maintenance and Support services. If County desires to renew such Maintenance and Support services, County shall pay such invoice prior to expiration of the then current Maintenance and Support services term in accordance with the payment terms of the Agreement.

The renewal amounts for the yearly Maintenance and Support services for the seven (7) year period beginning on September 1, 2006 through August 31, 2014 are as follows:

YEAR	PERIOD	TOTAL PER YEAR
1.	September 1, 2007 through August 31, 2008	\$193,922.50
2.	September 1, 2008 through August 31, 2009	\$205,557.84
3.	September 1, 2009 through August 31, 2010	\$217,891.32
4.	September 1, 2010 through August 31, 2011	\$230,964.80
5.	September 1, 2011 through August 31, 2012	\$244,822.68
6.	September 1, 2012 through August 31, 2013	\$259,512.04
7.	September 1, 2013 through August 31, 2014	\$275,082.77
	TOTAL THROUGH EXTENDED TERM	\$1,627,753.95

IV. CONTRACTOR'S FACILITY PROJECT MANAGER

Contractor will provide to County two (2) Contractor's Facility Project Managers for two (2) years from the Effective Date for a total fee for such Contractor's Facility Managers in the amount of \$1,000,000.00 (\$500,000.00 per each Contractor's Facility Project Manager). County's payment to Contractor shall be due on the first Business Day of each quarter (three-month period), commencing on the Effective Date, and shall be \$125,000.00 (\$62,500.00 per each Contractor's Facility Project Manager per quarter). Should County become delinquent in these payments and not cure any such delinquency within fifteen (15) days of receipt of written notice from Contractor, Contractor may suspend all services until such delinquency is cured. Contractor shall not be penalized for any delays in Deliverables as a result of any such suspension, subject to the Dispute Resolution Procedure.

In addition, County may utilized one or two Contractor's Facility Project Manager(s) for up to 24 months in 3 months increments per Contractor's Facility Project Manager, up to \$500,000 with the same payment terms.

APPLICATION MODIFICATIONS V.

CUSTOMIZATIONS

The fees below for Customizations under Subtask 12.1 (Develop Customizations) of Exhibit A.2 (Statement of Work - Optional Tasks) are valid for three (3) years following the Effective Date. Thereafter, said fees shall not increase by more than eight percent (8%) per annum through the end of the term of the Agreement (Extended Period):

Fixed Hourly Fee:

\$255 / hour

Per Day Fee (8 hours): \$2,040 / day

ADDITIONAL SOFTWARE B.

The fees below for Additional Software under Subtask 12.2 (Provide Additional Software) of Exhibit A.2 (Statement of Work - Optional Tasks) are valid for three (3) years from the Effective Date. Thereafter, said fees shall not increase by more than eight percent (8%) per annum through the end of the term of the Agreement (Extended Term):

ORSOS Additional Modules and Interfaces	Software List Price	County Software Discount Price	Service Implement Hours	Professional Services Fee
DRSOS 10 Additional Concurrent User Licenses	\$9,000	\$7,200	NA	NA
DRSOS 10 Additional Concurrent Books Groups of	\$10,250	\$8,000	NA	NA
Five	\$12,500	\$10,000	NA	NA
ORSOS Additonal Corporate Reporting Groups of			NA	NA
Five Business Objects Premium – pack of 10 Named	\$4,650	\$4,650		\$2,960
USERS CPT4/HCPCS IMPORT	\$4,500	\$3,600	16	
Equipment Import	\$3,500	\$2,800	16	\$2,960
ICD9 IMPORT	\$3,500	\$2,800	16	\$2,960
	\$3,500	\$2,800	16	\$2,960
INSTRUMENT IMPORT	\$15,000	\$12,000	40	\$5,610
ORDERS INTERFACE	\$4,500	\$3,600	24	\$3,366
POST CASE EXPORT	\$7,500	\$6,000	40	\$5,610
POST CASE IMPORT		\$2,800	18	\$2,525
PROCEDURE FILE IMPORT	\$3,500 \$4,500	\$3,600	24	\$3,366
RECEIVING IMPORT	\$4,500	\$3,600	24	\$3,366
REPLENISHMENT INTERFACE	\$3,500	\$2,800	16	\$2,960
REQUISITIONS EXPORT	\$4,500	\$3,600	24	\$3,366
STAFF IMPORT	\$3,500	\$2,800	16	\$2,960
Vendor File Import	\$5,500			

The Maintenance and Support renewal fees for the first renewal year shall be eighteen percent (18%) of the current list price of the Additional Software. The fee shall become due on the anniversary of the effective date of the applicable license. Reasonable travel and living expenses are not included in the fees quoted and may be billable, provided that such expenses are quoted and approved in advance by County, based on actual expenditures and do not exceed County's then current travel expense reimbursement rates.

Should County license any Third Party Products, the price and service fee will be as follows:

Third Party Partner Product	Software License	Professional Services
ORSOS Anesthesia Information System powered by DocuSys	Then Current List Price Less 10% discount, valid through the term of the Agreement.	To be determined
ORSOS Patient Flow System powered by PeriOptimum	Then Current List Price Less 10% discount, valid through the term of the Agreement.	To be determined

VI. PROFESSIONAL SERVICES

A. CONSULTING SERVICES

The fees below for Consulting Services under Subtask 13.1 (Provide Consulting Services) of Exhibit A.2 (Statement of Work – Optional Tasks) are valid for three (3) years from the Effective Date. Thereafter, said fees shall not increase by more than eight percent (8%) per annum through the end of the term of the Agreement (Extended Term):

Consulting Services		FIXED HOURLY FEE	PER DAY FEE (8 HOURS)
Ad Hoc Consulting Day (Per	8 Hour Day)	\$198.12 / hour	\$1,585 per day

Reasonable travel and living expenses are not included in the fees quoted and may be billable, provided that such expenses are quoted and approved in advance by County, based on actual expenditures and do not exceed County's then current travel expense reimbursement rates.

B. ADDITIONAL TRAINING

The fees below for Additional Training under Subtask 13.2 (Conduct Additional Training) of Exhibit A.2 (Statement of Work – Optional Tasks) are valid for three (3) years from the Effective Date. Thereafter, said fees shall not increase by more than eight percent (8%) per annum through the end of the term of the Agreement (Extended Term):

Additional Training	PER-HOUR RATE	PER-SESSION RATE (8 HOURS)
Ad Hoc Project Management Day (8 Hour Day)	\$178.50 / hour	\$1,428
Ad Hoc Education Day (8 Hour Day)	\$178.50 / hour	\$1,428
Ad Hoc Consulting Day (8 Hour Day)	\$178.50 / hour	\$1,585
Ad Hoc Crystal Report Conversion Day (8 Hour Day)	\$178.50 / hour	\$2,040
Ad Hoc Systems Engineering Day (8 Hour Day)	\$178.50 / hour	\$2,040
Remote DBA Services (8 Hour Day)	\$178.50 / hour	\$2,040
Annual DBA Services Contract (Per Facility Database) (Remote)	\$30,600	\$30,600

VII. POOL DOLLARS

Pool Dollars may be used for acquiring Post-Implementation Work under Tasks 12 (Application Modifications) and 13 (Professional Services) by executing a Change Notice in accordance with Paragraph 4 (Change Notices and Amendments) of the body of the Agreement. Following acquisition of Post-Implementation Work using Pool Dollars, Attachment A.5 (Post-Implementation Work) shall be updated to reflect the remaining Pool Dollars Balance. Pool Dollars shall also be used to reimburse Contractor for any and all reasonable travel and living expenses, provided such expenses are approved in advance by County, based on actual expenditures and do not exceed County's then current travel expense reimbursement rates.

VIII. CONTRACT SUM

Contract Sum shall be County's maximum obligation under the Agreement and shall include the cost of the Implementation Services, the License fees for the Baseline Application, all Maintenance and Support Fees, County's maximum obligation for Contractor's Facility Project Manager(s) and the maximum amount of Pool Dollars allocated hereunder, which shall also cover Contractor's travel and lodging expenses. The Contract Sum under the Agreement, including any and all sales tax amounts is Four Million Eight Hundred and One Thousand Two Hundred Fifty Two Dollars (\$4,801,252).

LAC+USC Medical Center

Application Software:
Upgrade Fee
RDBMS License

Fee: \$118,003.00

Per-Se Integration Server License
Web Provider Access Module License
Executive Console

Business Objects Premium, 10 Named Users

Total Services Fees: LAC + USC - Grand Total:	Implementation Services: Planning and Structure: Technical Installation and Testing: Base ORSOS Implementation: ADT 2 Way Interface Implementation: Revenue Maximizer Interface Implementation: Furchase Order Form Import Interface Implementation: Schedules Export Interface Implementation: Case Mix Interface Implementation: Crystal Class – 2 people – 3 days Web Based Provider Access Module Imp.: Big Board Module Implementation: Perioperative Charting Module Imp.: Policies and Procedures Development: \$10,756.00 \$2,891.00 \$7,229.00 \$2,891.00 \$2,891.00 \$2,891.00 \$4,337.00 \$4,337.00 \$4,337.00 \$2,891.00 \$13,673.00 \$13,673.00 \$11,820.00
\$130,705.00 \$248,708.00	Fees: \$10,756.00 \$ 2,891.00 \$ 36,386.00 \$ 7,229.00 \$ 7,229.00 \$ 2,891.00 \$ 2,891.00 \$ 4,337.00 \$ 4,337.00 \$ 4,337.00 \$ 3,135.00 \$ 2,891.00 \$ 3,135.00 \$ 13,673.00 \$ 11,820.00
	Number of Hours or Number of Days up to 60 hours up to 16 Hours up to 184 Hours up to 40 hours up to 40 hours up to 16 hours up to 16 hours up to 16 hours up to 16 hours up to 24 hours up to 24 hours up to 16 hours up to 64 Hours up to 64 Hours

OLIVE VIEW-UCLA MEDICAL CENTER

Application Software: Fee: \$118,003.00

RDBMS License

Per-Se Integration Server License Web Provider Access Module License Executive Console

Total Services Fees: \$ Olive View – UCLA MC - Grand Total: \$	ImplementationServices:Fees:Planning and Structure:\$10,756.00Technical Installation and Testing:\$2,891.00Base ORSOS Implementation:\$36,386.00ADT 2 Way Interface Implementation:\$7,229.00Revenue Maximizer Interface Implementation:\$7,229.00Inventory Item File Interface Implementation:\$7,229.00Purchase Order Form Import Interface Implementation:\$2,891.00Schedules Export Interface Implementation:\$2,891.00Case Mix Interface Implementation:\$2,891.00Crystal Class - 2 people - 3 days\$4,337.00Web Based Provider Access Module Imp.:\$3,135.00Perioperative Charting Module Imp.:\$2,891.00Policies and Procedures Development:\$13,673.00Executive Console Implementation\$14,457.00
\$130,705.00 \$248,708.00	Fees: \$10,756.00 \$ 2,891.00 \$36,386.00 \$ 7,229.00 \$ 7,229.00 \$ 2,891.00 \$ 2,891.00 \$ 4,337.00 \$ 4,337.00 \$ 3,135.00 \$ 2,891.00 \$ 2,891.00 \$ 13,673.00 \$ 13,673.00 \$ 11,457.00
	Number of Hours or Number of Days up to 60 hours up to 16 Hours up to 184 Hours up to 40 hours up to 40 hours up to 16 hours up to 16 hours up to 16 hours up to 16 hours up to 24 hours up to 24 hours up to 16 hours up to 16 hours up to 16 hours up to 74 hours up to 74 hours up to 80 hours up to 64 Hours

HARBOR-UCLA Medical Center

Application Software: RDBMS License

Fees: \$72,220.00

Per-Se Integration Server License Web Provider Access Module License Executive Console

Total Services Fees: \$117,255.00 HARBOR-UCLA Grand Total: \$189,475.00	Implementation Services: Planning and Structure Fees: \$10,756.00 Technical Assessment, Installation & Testing \$10,930.00 Project Management: Reports Migration 2 Schedules & 1 Daily Log \$ 2,186.00 Crystal Class – 2 people – 3 days Revenue Maximizer Interface Implementation: Schedules Export Interface Implementation: Schedules Export Interface Implementation: Inventory Item File Interface Implementation: S 7,229.00 Purchase Order Form Import Interface Imp. Issues Export Interface Implementation: Case Mix Interface Implementation: S 2,891.00 Perioperative Charting Module Imp.: Policies and Procedures Development: \$ 2,891.00 \$ 2,891.00 \$ 2,891.00 \$ 2,891.00 \$ 13,373.00 Policies and Procedures Development: \$ 14,457.00 \$ 11,820.00
55.00 75.00	Number of Hours or Number of Days: 1.00 up to 5 days 1.00 up to 9 days 1.00 up to 12 hours 1.00 up to 40 hours 1.00 up to 40 hours 1.00 up to 44 hours 1.00 up to 16 hours

Martin Luther King, Jr./Drew Medical Center

Application Software: Fees: \$72,220.00

RDBMS License

Per-Se Integration Server License Web Provider Access Module License Executive Console

}		
j		
-		
,		
1		
'n		
7		
2		
,		
7		
AT STT AT I ST Davie.		
h		
כ		
2		

Total Services Fees: \$11 Martin Luther King/Drew - Grand Total: \$18	Crystal Class – 2 people – 3 days Revenue Maximizer Interface Implementation \$ 7,229.00 ADT 2 Way Interface Implementation: \$ 7,229.00 ADT 2 Way Interface Implementation: \$ 7,229.00 Schedules Export Interface Implementation: \$ 4,337.00 Inventory Item File Interface Implementation: \$ 2,891.00 Purchase Order Form Import Interface Imp. Issues Export Interface Implementation: \$ 2,891.00 Case Mix Interface Implementation: \$ 2,891.00 Web Based Provider Access Module Imp.: \$ 2,891.00 Big Board Module Implementation: \$ 2,891.00 Policies and Procedures Development: \$ 2,891.00 Executive Console Implementation \$ \$14,457.00	n & Testing 1 Daily Log
\$117,255.00 \$189,475.00	\$ 7,229.00 up to 40 hours \$ 7,229.00 up to 40 hours \$ 7,229.00 up to 24 hours \$ 4,337.00 up to 16 hours \$ 2,891.00 up to 16 hours \$ 2,891.00 up to 16 hours \$ 2,891.00 up to 16 hours \$ 4,337.00 up to 24 hours \$ 2,891.00 up to 16 hours \$ 2,891.00 up to 16 hours \$ 2,891.00 up to 16 hours \$ 13,373.00 up to 74 hours \$11,820.00 up to 64 Hours	
		or Number of Days:

Rancho Los Amigos National Rehabilitation Center Application Software: Fees: Fees: \$72,220.00

RDBMS License

Per-Se Integration Server License Web Provider Access Module License

Executive Console

Total Services Fees: Rancho Los Amigos - Grand Total:	Implementation Services: Planning and Structure Fees: \$10,756.00 Technical Assessment, Installation & Testing \$10,930.00 Project Management: Reports Migration 2 Schedules & 1 Daily Log \$ 2,186.00 Crystal Class – 2 people – 3 days Revenue Maximizer Interface Implementation: Schedules Export Interface Implementation: \$ 7,229.00 ADT 2 Way Interface Implementation: \$ 7,229.00 Purchase Order Form Import Interface Implementation: \$ 2,891.00 Purchase Order Form Import Interface Imp. Issues Export Interface Implementation: \$ 2,891.00 Case Mix Interface Implementation: \$ 2,891.00 Perioperative Charting Module Imp.: \$ 2,891.00 Perioperative Charting Module Imp.: \$ 2,891.00 Stage Office Service Charting Module Imp.: \$ 2,891.00
\$117,255.00 \$189,475.00	Fees: \$10,756.00 \$10,756.00 \$13,011.00 \$13,011.00 \$ 2,186.00 \$ 3,135.00 \$ 7,229.00 \$ 7,229.00 \$ 4,337.00 \$ 2,891.00 \$ 2,891.00 \$ 2,891.00 \$ 2,891.00 \$ 12,891.00 \$ 13,373.00 \$ 13,4757.00 \$ 11,820.00
	Number of Hours or Number of Days: up to 60 hours up to 5 days up to 9 days up to 12 hours 3 days up to 40 hours up to 40 hours up to 16 hours up to 64 Hours up to 80 hours up to 64 Hours

OPERATING ROOM SCHEDULING OFFICE SYSTEM (ORSOS)

SECTION I – UPGRADE PLAN

Α.	RANCHO – PROJECT START DATE	TBD
----	-----------------------------	-----

DELIVERABLE	TOCOMPETON	DELIVERY DATE	ASSOCIATED MILESTONE
NUMBER	DESCRIPTION		
1.1	Proposed Implementation Solution		
1.2	Design Document		
1.3 (KEY)	Implementation Project Plan		1
2.1	Status Reports and Meetings	Ongoing	
3.1	Qualified Contractor's Facility Project Manager		
4.1	Minimum System Environment Configuration		
4.2	System Environment Certification		
4.3	Third Party Software Certification		
5.1	Deployment Plan		
5.2	Successfully Installed Baseline Application		
6.1	Data Conversion and Migration Plan		
6.2 (KEY)	Successfully Converted and Migrated Data		2
7.1	Reliability Test Plan		
7.2	Integrated Functional Test Plan		
7.3	Stress Test Plan		
8.1	Reliability Test		
8.2	Integrated Functional Test		3
8.3	Stress Test		4
9.1 (KEY)	Non-Deficient System Production Use		-
10.1	Trained County Staff		5
10.2 (KEY)	System Documentation		3

B. KDMC – PROJECT START DATE: TBD

DELIVERABLE NUMBER	DESCRIPTION	DELIVERY DATE	ASSOCIATED MILESTONE
1.1	Proposed Implementation Solution		
1.2	Design Document		
1.3 (KEY)	Implementation Project Plan		1
2.1	Status Reports and Meetings	Ongoing	
3.1	Qualified Contractor's Facility Project Manager		
4.1	Minimum System Environment Configuration		
4.2	System Environment Certification		
4.3	Third Party Software Certification		
5.1	Deployment Plan		
5.2	Successfully Installed Baseline Application		
6.1	Data Conversion and Migration Plan		
6.2 (KEY)	Successfully Converted and Migrated Data		2
7.1	Reliability Test Plan		
7.2	Integrated Functional Test Plan		
7.3	Stress Test Plan		
8.1	Reliability Test		
8.2	Integrated Functional Test		
8.3	Stress Test		3
9.1 (KEY)	Non-Deficient System Production Use		4
10.1	Trained County Staff		
10.2 (KEY)	System Documentation		5

C. HARBOR/UCLA – PROJECT START DATE: TBD

ELIVERABLE		DELIVERY DATE	ASSOCIATED MILESTONE
NUMBER	DESCRIPTION		
1.1	Proposed Implementation Solution		
1.2	Design Document		
1.3 (KEY)	Implementation Project Plan		1
2.1	Status Reports and Meetings	Ongoing	
3.1	Qualified Contractor's Facility Project Manager		
4.1	Minimum System Environment Configuration		
4.2	System Environment Certification		
	Third Party Software Certification		
4.3	Deployment Plan		
5.1	Successfully Installed Baseline Application		
5.2			
6.1	Data Conversion and Migration Plan		
6.2 (KEY)	Successfully Converted and Migrated Data		
7.1	Reliability Test Plan		
7.2	Integrated Functional Test Plan		
7.3	Stress Test Plan		
8.1	Reliability Test		
8.2	Integrated Functional Test		
	Stress Test		3
8.3	Non-Deficient System Production Use		4
9.1 (KEY)			
10.1	Trained County Staff		5
10.2 (KEY)	System Documentation		

SECTION H - IMPLEMENTATION PLAN

A. LAC+USC - PROJECT START DATE: TBD

DELIVERABLE	DESCRIPTION	DELIVERY DATE	ASSOCIATED MILESTONE
NUMBER 1.1	Proposed Implementation Solution		
1.2	Design Document		
1.3 (KEY)	Implementation Project Plan		1
2.1	Status Reports and Meetings	Ongoing	
3.1	Qualified Contractor's Facility Project Manager		
4.1	Minimum System Environment Configuration		
4.2	System Environment Certification		
4.3	Third Party Software Certification		
5.1	Deployment Plan		
5.2	Successfully Installed Baseline Application		
6.1	Data Conversion and Migration Plan		
6.2 (KEY)	Successfully Converted and Migrated Data		2
7.1	Reliability Test Plan		
7.2	Integrated Functional Test Plan		
7.3	Stress Test Plan		
8.1	Reliability Test		
8.2	Integrated Functional Test		
8.3	Stress Test		3
9.1 (KEY)	Non-Deficient System Production Use		4
10.1	Trained County Staff		
10.2 (KEY)	System Documentation		5

B. OVMC - PROJECT START DATE: TBD

DELIVERABLE	DESCRIPTION	DELIVERY DATE	ASSOCIATED MILESTONE
NUMBER	DESCRIPTION Solution		
1.1	Proposed Implementation Solution		
1.2	Design Document		1
1.3 (KEY)	Implementation Project Plan	Oversing	
2.1	Status Reports and Meetings	Ongoing	
3.1	Qualified Contractor's Facility Project Manager		
4.1	Minimum System Environment Configuration		
4.2	System Environment Certification		
4.3	Third Party Software Certification		
5.1	Deployment Plan		
5.2	Successfully Installed Baseline Application		
6.1	Data Conversion and Migration Plan		
6.2 (KEY)	Successfully Converted and Migrated Data		2
7.1	Reliability Test Plan		
7.2	Integrated Functional Test Plan		
7.3	Stress Test Plan		
8.1	Reliability Test		
8.2	Integrated Functional Test		3
8.3 (KEY)	Stress Test		4
9.1 (KEY)	Non-Deficient System Production Use		4
10.1	Trained County Staff		5
10.2 (KEY)	System Documentation		3

I. <u>GENERAL</u>

Capitalized terms used in this Exhibit D (Maintenance and Support) without definition shall have the meanings given to such terms in the body of this Agreement.

Contractor shall provide Maintenance and Support services in accordance with the requirements set forth in the body of the Agreement and this Exhibit D. Maintenance and Support services include Maintenance Services and Support Services, all as more fully described below.

Maintenance and Support services shall commence in accordance with the provisions set forth in Paragraph 5.5 (Maintenance and Support) of the body of the Agreement and shall continue for the term of this Agreement, if so elected by County. Contractor shall support all Application Software Components in their respective then-existing architecture and for their respective then-existing versions and the most recent prior one (1) Version Release for the term of this Agreement.

Contractor shall provide Maintenance and Support services for the Application Software from Contractor's business premises and/or from County Facilities, as necessary to fulfill its obligations under the Agreement. Authorized County staff may submit a request for Maintenance Services and/or Support Services via electronic mail (email), telephone or pager. Maintenance Service and/or Support Service calls (including pager calls) reporting Application Software Deficiencies will be followed up by the County's Project Manager or his/her designee via electronic mail (email) for Contractor record keeping. Maintenance Services shall include Contractor performing the tasks outlined below.

II. MAINTENANCE SERVICES

Contractor shall provide maintenance services in respect of the System as described in this Exhibit D in respect of the Application Software, including Updates.

A. <u>UPDATES</u>

Contractor shall provide Updates to Application Software to keep current with County technology standards, industry standards and applicable Third Party Software upgrades, enhancements, updates, patches, bug fixes, etc. in accordance with this Exhibit D, as determined by County's Project Manager in his/her reasonable judgment. Without limiting the other provisions of this Agreement, including, without limitation, this Exhibit D and all Schedules thereto, Version Releases shall be provided to County at least once every year, unless otherwise agreed to by County and Contractor.

Contractor shall offer to County Updates, including, but not limited to, updates, enhancements, improvements and Version Releases of the Application Software, or any Component or module of such Application Software, and all Documentation related thereto promptly after the creation thereof.

Contractor shall notify County of all such Updates to the Application Software prior to the anticipated installation date therefor. Without limiting Section I (General) of this Exhibit D, installation of each Update shall be subject to prior written approval of County's Project Manager. Contractor's provision and installation of such Updates to the Application Software shall be at no additional cost to County beyond the Maintenance Fees. Any Updates necessary to remedy security problems in the Application Software (e.g., closing "back doors" or other intrusion-related problems), whether identified by Contractor, County or a third party, shall be provided to County within ten (10) calendar days of availability from Contractor.

ENHANCEMENTS В.

Request for Enhancements (RFEs):

When County requests a change in program functionality through the online Customer Kiosk, we follow a process to ensure that the request is going to be accepted by a majority of our customers. We involve our Customer Steering Committee in the review and decision of RFEs that are implemented in the product. Once there is a decision made to develop the request, the following process occurs:

- Our product director and business analysts prepare business and detailed requirements documents to describe the accepted RFE. This document describes desired functionality and presents suggestions for implementation of that functionality from a user perspective. If necessary, we may contact the client to gain usage knowledge.
- The requirement document is passed to the Development manager and an estimate is made on the effort and timeframe. This will include development, QA and beta testing time.
- When coding is complete, the business analyst tests the enhancement to ensure the functionality matches the requirement document. If functionality is incomplete or inadequate, the problem is submitted to a tracking database and addressed by the developer, who subsequently resubmits the coding for re-testing until the RA has approved the functionality.
- The QA testing group tests all areas of the program on both MS-SQL Server and Oracle paying special attention to any area that may have changed because of new functionality. This testing is a combination of both manual and automated testing.
- During the beta process, our beta sites are trained on new features and follow a specific test plan covering all system functionality, and are also guided to test the system against their internal business process. Weekly meetings between development and beta customers are held to address any design or coding issues found during beta testing.
- Each beta site must sign an acceptance form stating that the testing has been successful and complete.
- Throughout the development and testing process, documentation is created and tested as well. Our publications group distributes new documentation with each release outlining the changes in the product.

C. PREVENTIVE MAINTENANCE

Contractor will provide to County its most current Best Practices Suggestions documentation and for so long as County is under Contractor's Maintenance and Support, Contractor shall deliver to County all updated versions of this document.

III. SUPPORT SERVICES

Contractor shall provide support services in respect of the System as described in this Exhibit D and this Agreement generally (collectively, "Support Services"). As part of its Support Services, Contractor shall provide operational support for the System during the Support Hours, including, without limitation, through a Help Desk. Such operational support shall include Support Services to correct any failure of the Application Software and to remedy Deficiencies (collectively, "Correction of Deficiencies"), such that the Application Software operates in accordance with Specifications, including the Functional Requirements and Performance Requirements such as Response Times.

A. <u>IDENTIFICATION OF DEFICIENCIES</u>

Upon occurrence of a Deficiency, County, following its problem resolution process, shall report the Deficiency to Contractor's Help Desk for resolution in accordance with Schedule D.1 (Incident Tracking).

The Severity Level of the Deficiency shall be assigned by County in its sole discretion. Based on Contractor's proposed solution and/or workaround(s) for the Deficiency, County may, in its sole discretion, reevaluate and, if it so chooses, escalate or downgrade the Severity Level of the Deficiency pursuant to Section II of Schedule D.3 (Correction of Deficiencies), for so long as the deficiency meets the criteria of the applicable escalated or downgraded Severity Level.

B. <u>CORRECTION OF DEFICIENCIES</u>

Contractor shall resolve each Deficiency reported hereunder in accordance with the time frames specified in Schedule D.3 (Correction of Deficiencies) for such Deficiency's Severity Level, as escalated or downgraded in accordance with Section III.A of this Exhibit D, if applicable. The time in which Contractor must resolve each Deficiency under Schedule D.3 (Correction of Deficiencies) shall start tolling when County notifies Contractor of such Deficiency by telephone or otherwise, including Contractor's ITS, and shall end when Contractor submits resolution of such Deficiency to County's Project Director for approval thereof in accordance with Paragraph 2.4 (Approval of Work), provided such resolution is thereafter so approved by County without prior rejection by County or significant delay in County's approval thereof, which delay is the result of Contractor's failure to satisfactorily resolve such Deficiency in accordance with the terms hereof. The actual Resolution Time for Deficiency correction shall not exceed the Maximum Resolution Times set forth in Schedule D.3 (Correction of Deficiencies).

C. SYSTEM PERFORMANCE REQUIREMENTS

For purposes of this Exhibit D and this Agreement generally, the System's failure to meet the System Performance Requirements set forth in Schedule D.2 (System Performance Requirements) constitutes a Deficiency (collectively, "Response Time Deficiency"). Subject to, and in accordance with, Paragraph 10.2 (System Performance Warranty) of the body of the Agreement, Contractor shall correct all Response Time Deficiencies.

County from time to time may request that Contractor evaluate and report System performance relative to the agreed upon System performance Requirements set forth in Schedule D.2 (System Performance Requirements) to this Exhibit D. Contractor shall so evaluate and report on the performance requirements in accordance with a monitoring plan mutually agreed upon between County's Project Manager and Contractor's Project Manager in connection with County's request.

If Contractor recommends in writing an upgrade, repair or replacement of any Component of the System Environment in order to remedy a Response Time Deficiency, County shall make such upgrade, repair or replacement in accordance with Contractor's recommendation. The initial cost of such System alteration shall be allocated in accordance with Paragraph 10.3 (System Performance Deficiencies) of the body of the Agreement. In any event, if the Deficiency is not solved by such System alteration, Contractor shall reimburse County for any and all amounts expended by County based upon Contractor's recommended System alteration.

IV. THIRD PARTY SOFTWARE

Maintenance and Support services additionally include ongoing maintenance of the Application Software's compatibility with the Third Party Software.

Prior to the installation thereof, Contractor shall test the compatibility of each Update to the Application Software with County's then-current Third Party Software and shall report its findings to County.

Contractor shall ensure that the Application Software is compatible with the required or critical updates to the Operating Software, including, without limitation, services packs and security patches, within ten (10) days of availability from Contractor. Should Contractor decide to use Third Party Product updates, version releases, enhancements, etc., such new version of the Third Party Product will be included in the next Version Release of the Application Software.

In the event it is determined that any required update is not compatible with the Application Software, Contractor shall provide County with a workaround to protect the

integrity of the Application Software until such time as the Deficiency is corrected. Compatibility issues with Third Party Software will be subject to Schedule D.3 (Correction of Deficiencies).

V. <u>DOWNTIME CREDITS</u>

From time to time, County may assess Downtime Credits (as defined in Section V (Downtime Credits) of Schedule D.3 (Correction of Deficiencies)) against the Maintenance Fees otherwise payable to Contractor under this Agreement in respect of any Severity Level I or II Deficiency known to, or reproducible by, Contractor which is not remedied within the Maximum Resolution Times. Such Downtime Credits shall be assessed in accordance with Schedule D.3 (Correction of Deficiencies) and Paragraph 5.5.3 (Downtime Credits) of the body of this Agreement. Notwithstanding anything to the contrary set forth in this Exhibit D or in any Schedules thereto, any credits accruing to County as a result of such Deficiency shall be based upon its escalated or downgraded Severity Level, if applicable, assigned to such Deficiency in accordance with Section III.A (Identification of Deficiencies) of this Exhibit D.

INCIDENT TRACKING

The following shall be the process for tracking and/or resolving the Deficiencies reported by County and other Users.

- 1. Contractor shall follow Incident Tracking System (ITS) for Deficiency reporting and tracking.
- 2. County will identify County staff authorized to access and initiate online incident reports/service requests, via the ITS. County will notify Contractor in writing of all authorized personnel.
- 3. In a preliminary effort, County, using its own problem tracking process, will try to determine the cause of and resolve the Deficiency prior to reporting it to Contractor's Help Desk.
- 4. In the event the County is unable to determine the source of and/or to resolve the Deficiency, County will contact Contractor's Help Desk via email, phone or using the ITS.
- 5. The Severity Level of the Deficiency shall be assigned by County upon reporting to Contractor's Help Desk in accordance with the body of this Exhibit D (Maintenance and Support).
- 6. Contractor Help Desk will address each incident in accordance with Schedule D.3 (Correction of Deficiencies) and the body of this Exhibit D (Maintenance and Support).

SYSTEM PERFORMANCE REQUIREMENTS

TO BE COMPLETED IN ACCORDANCE WITH PARAGRAPH 10.2 (SYSTEM PERFORMANCE WARRANTY) OF THE BODY OF THIS AGREEMENT.

Application Software Performance Requirements - After Production

Type of Transaction	Transaction Description	Maximum Response Time
Application Availability		
Application Response Time		
Response Time for User		
Transactions		

OPERATING ROOM SCHEDULING OFFICE SYSTEM (ORSOS)

I. PROBLEM CORRECTION PRIORITY

County shall assign one of the following Severity Levels to each County Deficiency report submitted to Contractor in accordance with Schedule D.1 (Incident Tracking):

Deficiency Severity Level	Description of Deficiency	Maximum Resolution Times
l	Production system is down and Application Software cannot be used on any workstation. Application Software cannot be used or disrupts functionality to the extent the System cannot be used.	Eight (8) hours, beginning when County reports the Deficiency to Contractor.
	A Problem that critically or severely degrades the performance of the Application Software or materially restricts business; restricts the use of one or more features of the Application Software to perform necessary business functions but does not completely restrict usage of the Application Software. Ability to use the Application Software, but an important function is not available and operations are severely impacted.	Thirty-six (36) hours, beginning when County reports the Deficiency to Contractor. Deficiencies which are initially assigned Severity Level II are subject to escalation.
III	A problem that causes only a minor impact on the use of the Application Software (e.g., workstation specific issues, issues with test environment). The Problem can be easily circumvented. The problem can cause some functional restrictions but it does not have a critical or severe impact on operations.	(a) Next Version Release, but in no event later than eighteen (18) months from notification by County, or (b) upon mutual agreement by County and Contractor on an alternate solution. Deficiencies which are initially assigned Severity Level III are subject to escalation.
IV	This is a minor problem and is not significant to operations or is related to education (e.g., general "how to" and informational Application Software questions, Documentation requests, understanding of reports or general "how to" create reports).	months from notification by County,

II. PROBLEM RESOLUTION PROCESS

County will have appropriate resources available throughout the duration of each applicable Severity Level I or II Deficiency to provide reasonable cooperation and assistance to Contractor and agrees to authorize immediate administrative rights, including but not limited to a local administrative account on the device being worked on, and network administrative access, up to potentially domain administrative privileges and

any other necessary access to devices or facilities that would help troubleshoot the issue at hand.

A. Severity Level I:

- Contractor shall provide commercially reasonable best efforts to correct any Severity Level I Deficiency as specified in Schedule D.1 (Incident Tracking). If a Deficiency cannot be corrected within specified time as described above, Contractor will communicate with County's Facility Project Manager and provide an estimated time for completing the correction. The parties will jointly cooperate during this period of time.
- In the event the Deficiency cannot be corrected within the estimated time, Contractor
 will immediately notify County's Facility Project Manager and the parties will work
 together to define an updated estimate for the time needed for correction.
- 3. This process will be repeated until the correction is approved by County's Facility Project Manager; upon which approval, County's Facility Project Manager will notify County's Project Director.
- 4. County may assess credits in accordance with Section V (Downtime Credits) of this Schedule D.3 and Paragraph 5.5.3 (Downtime Credits) of the body of the Agreement if the Deficiency is not resolved within the Maximum Resolution Time allocated therefor.

B. <u>Severity Level II</u>:

- 1. Contractor shall provide commercially reasonable best efforts to correct any Severity Level II Deficiency as specified in Schedule D.1 (Incident Tracking). If the Deficiency cannot be corrected within specified time, as described above, Contractor will communicate with County's Facility Project Manager and provide an estimated time for completing the correction. The parties will jointly cooperate during this period of time.
- 2. In the event the Deficiency cannot be corrected within the estimated time, Contractor will immediately notify County's Facility Project Manager, and the parties will work together to define an updated estimate for the time needed for correction.
- 3. This process will be repeated until the correction is approved by County's Facility Project Manager, upon which approval County's Facility Project Manager will notify County's Project Director.
- 4. County may assess credits in accordance with Section V (Downtime Credits) of this Schedule D.3 and Paragraph 5.5.3 (Downtime Credits) of the body of the Agreement if the Deficiency is not resolved within the Maximum Resolution Time allocated therefor.

C. <u>Severity Level III</u>:

Contractor shall upon identification or notification by County's Project Manager of a Severity Level III Deficiency, (a) correct the reported Deficiency in the next Version Release, but in no event later than eighteen (18) months from notification by County, or (b) County and Contractor will mutually agree upon an alternate solution.

D. Severity Level IV:

Contractor shall upon identification or notification by County's Project Manager of a Severity Level IV Deficiency, (a) correct the reported Deficiency in the next Version Release, but in no event later than eighteen (18) months from notification by County, or (b) County and Contractor will mutually agree upon an alternate solution.

III. SEVERITY LEVEL ADJUSTMENT

County may escalate or downgrade a Severity Level of a Deficiency if the Deficiency meets the definition of the Severity Level as escalated or downgraded. At the time the Deficiency is escalated, appropriate timeline will be applied for resolution of such Deficiency in accordance with Section I (Problem Correction Priority) of this Schedule D.3.

IV. DOWNTIME CREDITS

A. Severity Level I and Severity Level II Deficiencies:

Without limiting any other rights and remedies available to County, either pursuant to this Agreement, at law or in equity, for each County Facility, County shall be entitled to Downtime Credits in the event that either (i) Contractor fails to correct any Severity Level I or II Deficiency known to, or reproducible by, Contractor within the applicable Maximum Resolution Time or such longer period as agreed to by County and Contractor; and/or (ii) upon the occurrence of three (3) or more Severity Level I Deficiencies in any single calendar month (collectively and individually, "Downtime Credit(s)").

Downtime Credits shall not be issued if (i) Downtime occurs during mutually agreed upon scheduled or planned shut down of the System Hardware, System Software or Application Software for preventive maintenance or Response Time testing, (ii) Downtime results from use of the Application Software by County other than as instructed by Contractor, or (iii) neither Contractor nor Application Software caused the Downtime.

B. <u>Assessment of Downtime Credits</u>:

1. For each County Facility, if Contractor fails to correct any Severity Level I or Severity Level II Deficiency within the timeframes set forth in Schedule D.3 (Correction of Deficiencies), then, in each instance, County may, acting reasonably, assess Downtime Credits equal to One Hundred Fifty Dollars (\$150) per day for each day the Deficiency(ies) continues beyond the timeframe required for resolution thereof under Section I (Deficiency Correction Priority) of this Schedule D.3.

The amount of time elapsed for the calculation of Downtime Credits will be determined by the timestamp or other evidence issued by the ITS at such time as a service request is sent by County to Contractor.

- 2. For each County Facility, if during any calendar month three (3) or more Severity Level I Deficiencies occur, then, in each instance, County may, in its sole discretion, assess Downtime Credits in an amount equal to one third (1/3) of the monthly Maintenance Fees allocable to such County Facility.
- The cumulative total of all Downtime Credits accruing during any one (1) calendar month shall not exceed the monthly Maintenance Fees payable by County to Contractor.
- 4. Notwithstanding anything to the contrary set forth in this Schedule D.3, the body of Exhibit D or other Schedules thereto, any Downtime Credits accruing to County as a result of a Deficiency shall be based upon its escalated or downgraded Severity Level, if applicable, assigned to such Deficiency in accordance with Section IV (Problem Escalation) of this Schedule D.3.

٠٠ . ـــــ

EMPLOYEE ACKNOWLEDGMENT, CONFIDENTIALITY AND ASSIGNMENT AGREEMENT

PROJECT NAME
CONTRACTOR/EMPLOYER NAME
LOS ANGELES COUNTY AGREEMENT NAME/NUMBER

GENERAL INFORMATION

The organization identified above ("Contractor") is under contract ("Contract") to provide certain services to the County of Los Angeles ("County"). The County requires each employee of this Contractor performing services under this Contract to understand his/her obligations with respect to the personal and proprietary data with which he/she will be in contact, and to acknowledge such obligations by executing this Contractor Employee Acknowledgment, Confidentiality and Assignment Agreement.

EMPLOYEE STATUS ACKNOWLEDGMENT

I understand and agree that the above-referenced Contractor is my sole employer for purposes of the abovereferenced Contract. I understand and agree that I must rely exclusively upon my employer for payment of salary and any and all other benefits payable to me or on my behalf by virtue of my performance of work under the above-referenced Contract.

I understand and agree that I am not an employee of the County for any purpose whatsoever and that I do not have and will not acquire any rights or benefits of any kind from the County by virtue of my performance of work under the above-referenced Contract. I understand and agree that I do not have and will not acquire any rights or benefits from the County pursuant to any agreement between any person or entity and the County of Los Angeles.

I understand and agree that I may be required to undergo a background and security investigation(s). I understand and agree that my continued performance of services under the above-referenced Contract is contingent upon my passing, to the satisfaction of the County, any and all such investigations. I understand and agree that my failure to pass, to the satisfaction of the County, any such investigation shall result in my immediate release from performance under this Contract and/or any future contracts.

CONFIDENTIALITY AGREEMENT

My work may be concerned with services provided by the County, and therefore I may have access to confidential data and information pertaining to private individuals and/or entities receiving such services. I may also have access to proprietary information belonging to other organizations doing business with the County. The County has a legal obligation to keep confidential all such data and information in its possession, especially data and information concerning health, criminal and welfare recipient records. I understand that, by virtue of my involvement in County work, I too must protect the confidentiality of such data and information. I understand I must sign this agreement to be eligible to perform work for my employer under the County Contract. I have read this agreement and have taken due time to consider it prior to signing.

I agree not to disclose to nor reproduce for the benefit of any unauthorized person, any data or information obtained while performing work under the above-referenced Contract between my employer and the County. I agree to forward all requests for disclosure or copying of any such data or information in my possession or The parties hereby acknowledge and agree that no obligation of care to my immediate supervisor. confidentiality applies to residual knowledge learned (such as ideas, concepts know-how or techniques) and experience gained by me as a result of performing the Services. In addition, nothing herein shall prevent me or Contractor from providing to others similar services to the Services, subject to any obligations of confidentiality.

I agree to protect from loss and to keep confidential all health, criminal and welfare recipient records and all data, information and materials pertaining to persons and/or entities receiving services from the County, design concepts, algorithms, programs, formats, documentation, Contractor's proprietary information, and all other original materials produced, created or provided to or by me under the above-referenced Contract. I agree to protect these confidential materials against disclosure to other than my employer or County employees who have a need to know the information. I agree that if proprietary information supplied by other County vendors is provided to me during this employment, I shall keep such information confidential.

I agree to report to my immediate supervisor any and all unauthorized disclosures or copying of confidential or proprietary data or information, whether accidental or intentional, and whether by myself and/or by any other person, of which I become aware. I agree to return all confidential data, information and materials to my immediate supervisor upon completion of the above-referenced Contract, or termination of my employment with my employer, whichever occurs first.

SIGNED:	DATE:	
PRINTED:	POSITION	

ASSIGNMENT OF PROPRIETARY RIGHTS:

As used in this agreement, "Works" means (i) any inventions, trade secrets, ideas, original works of authorship or Confidential Information (as defined below) that I conceive, develop, discover or make in whole or in part during my employment with Contractor which relates to the Contract, (ii) any inventions, trade secrets, ideas, original works of authorship or Confidential Information (as defined below) that I conceive, develop, discover or make in whole or in part during or after my employment with Contractor which are made through the use of any of Contractor's equipment, facilities, supplies, trade secrets or time, or which result from any work I perform for Contractor, and (iii) any part or aspect of any of the foregoing. "Confidential Information" means all information or material disclosed to or known by me as a consequence of my employment with Contractor, including third party information or information disclosed by County that Contractor treats as confidential, and any information disclosed to or developed by me or embodied in or relating to the Works.

All Works shall belong exclusively to Contractor whether or not fixed in a tangible medium of expression. Without limiting the foregoing, to the maximum extent permitted under applicable law, all Works shall be deemed to be "works made for hire" under the United States Copyright Act, and Contractor shall be deemed to be the author thereof.

<u>-</u> - مر

If and to the extent any Works are determined not to constitute "works made for hire," or if any rights in the Works do not accrue to Contractor as a work made for hire, I irrevocably assign and transfer to Contractor to the maximum extent permitted by law all right, title and interest in the Works, including but not limited to all copyrights, patents, trade secret rights, and other proprietary rights in or relating to the Works. Without limiting the foregoing, I irrevocably assign and transfer to Contractor all economic rights to the Works, including without limitation the exclusive and unrestricted right to reproduce, manufacture, use, adapt, modify, publish, distribute, sublicense, publicly perform and communicate, translate, lease, import, export, transfer, convey and otherwise exploit the Works.

I expressly approve any and all modifications, uses, publications and other exploitation of the Works that Contractor or any successor or transferee of Contractor may elect to make, and I expressly agree that no such modifications, uses, publications or exploitations will or may cause harm to my honor or reputation, or will be deemed to constitute a distortion or mutilation of the Works.

I agree to provide any assistance reasonably requested by Contractor, now and in the future, to obtain United States or foreign letters patent and copyright registrations covering inventions and original works of authorship belonging or assigned to Contractor. I shall execute any transfers of ownership of letters patent or assignments of copyrights or other proprietary rights transferred or assigned hereunder (including short form assignments intended for recording with the U.S. Copyright Office, the U.S. Patent and Trademark Office or any other entity). If Contractor is unable for any reason whatsoever, including my mental or physical incapacity, to secure my signature to apply for or to pursue any application for any United States or foreign letters patent or copyright registrations or on any document transferring or assigning any patent, copyright or other proprietary right that I am obligated to transfer or assign, I irrevocably designate and appoint Contractor and its duly authorized officers and agents as my agent and attorney in fact, to act for and on its behalf and stead to execute and file any such applications and documents and to do all other lawfully permitted acts to further the prosecution and issuance of letters patent or copyright registrations or transfers or assignments thereof or of any other proprietary rights with the same legal force and effect as if executed by me. This appointment is coupled with an interest and is irrevocable.

This agreement shall be construed in accordance with the provisions of Section 2870 of the California Labor Code (the text of which follows) relating to inventions made by an employee. Accordingly, this agreement is not intended and shall not be interpreted to assign to or vest in Contractor any of my rights in any inventions developed entirely on my own time without using Contractor's equipment, supplies, facilities, or trade secret information, except for those inventions that either relate at the time of conception or reduction to practice of the invention to Contractor's business or the actual or demonstrably anticipated research or development of Contractor, or result from any work I performed for Contractor.

California Labor Code Section 2870. Employment Agreements; Assignment of Rights

- (a) Any provision in an employment agreement which provides that an employee shall assign or offer to assign any of his or her rights in an invention to his or her employer shall not apply to an invention that the employee developed entirely on his or her own time without using the employer's equipment, supplies, facilities, or trade secret information except for those inventions that either:
 - (1) Relate at the time of conception or reduction to practice of the invention to the employer's business or actual or demonstrably anticipated research or development of the employer; or
 - (2) Result from any work performed by the employee for the employer.
- (b) To the extent a provision in an employment agreement purports to require an employee to assign an invention otherwise excluded from being required to be assigned under subdivision (a), the provision is against the public policy of this state and is unenforceable.

I expressly acknowledge and agree that I wish to remain anonymous and not to have my name or any pseudonyms used in connection with any Works, goods or services I provide under this agreement or the above referenced Contract.

I acknowledge that violation of this agreement may cause irreparable harm to County, which may not be compensated by monetary damages, and may subject me to civil and/or criminal action and that the County of Los Angeles may seek all possible legal and equitable redress, including, without limitation, injunctive relief.

SIGNED:	DATE:	
PRINTED:	POSITION:	

Contractor's EEO Certification

Contractor's Name		
Address		
nternal Revenue Service Employer Identification Number		
GENERAL		
In accordance with Subchapter VII of the Civil Rights Act of 1964, 42 USC through 2000e-17, and the Americans with Disabilities Act of 1990, CONTRACT or vendor certifies and agrees that all persons employed by such firm subsidiaries, or holding companies are and will be treated equally by the firm wor because of race, color, religion, ancestry, national origin, age, condition mental disability, marital status, political affiliation or sex and in compliance discrimination laws of the United States of America and the State of California.	n, its affiliant vithout regard of physical control with all a	tes, d to l or
CONTRACTOR'S CERTIFICATION (check one)		
 The Contractor has a written policy statement prohibiting discrimination in all phases of employment. 	YES	NO
 The Contractor periodically conducts a self analysis or utilization analysis of its work force. 	YES	NO
 The Contractor has a system for determining if its employment practices are discriminatory against protected groups. 	YES	NO
4. Where problem areas are identified in employment practices, the Contractor has a system for taking reasonable corrective action to include establishment of goals or timetables.	YES	NO
Name and title of signer		-
Signature Date		

ADMINISTRATION OF AGREEMENT

ADMINISTRATION OF AGREEMENT County's Key Personnel

AGREEMENT NO	
COUNTY PROJECT CO-DIRECTOR:	
Title: Project Director	
Address: 313 N Figueroa, Room 317	
Los Angeles, CA 90033	
Telephone: _(310)222-8133	
Facsimile: _(310)222-6464	
E-Mail Address. Kindada	
COUNTY PROJECT CO-DIRECTOR:	
Name:Paul Fu Jr., MD	
Title:Project Director	
Address: 313 N Figueroa, Room 317	
Telephone: _(213)240-8128	
Facsimile: _(213)240-7809	
E-Mail Address: <u>pfu@ladhs.org</u>	
COUNTY PROJECT MANAGER:	
Name:Ulda Matos	
Title: Project Manager	
Address: 313 N Figueroa, Room 317	
Los Angeles, CA 90033	
Telephone: _(310)222-8140	
Facsimile: _(310)222-6464	
E-Mail Address: <u>umatos@ladhs.org</u>	
E Man / Mar dos .	
COUNTY FACILITY PROJECT MANAGERS	
Name:Barbara Oliver	
Title:LAC/USC Project Manager	
Address: 1200 N State St. Med Admin	
Los Angeles, CA 90012	

Facsimile:	_(323)226-3427 _(323)226-5932 : <u>boliver@ladhs.org</u>
Address: 12	Myrlene DecaturLAC/USC - Project Manager 200 N State St, OR Nursing os Angeles, CA 90012
Facsimile:	_(323)226-4595 _(323)226-2784 s: <u>boliver@ladhs.org</u>
Title:	Louise Tafoya Rancho - Project Manager 601 E Imperial Hwy, Nursing Admin Downey, CA 90242
Telephone: Facsimile:	7000
Title: Address:	Audrey MazurOVMC - Project Manager
Telephone:	(818)364-6411 ess: _amazur@ladhs.org
Name: Title: Address:	Suellen Underwood
Telephone: Facsimile: E-Mail Addr	_(310) 501-0188ess: _sunderwood@ladhs.org
Name: Title: Address:	Cathy HoustonHarbor - Project Manager

EXHIBIT G Section I

Telephone:	_(310)222-1745
Facsimile:	
E-Mail Addre	ss:_chouston@ladhs.org
COUNTY AG	REEMENT PROJECT MONITOR:
Name:	
Title:	
Address:	
7,00,000.	
Talambanas	
Telephone:	
Facsimile:	
E-Mail Addres	s:

ADMINISTRATION OF AGREEMENT Contractor's Key Personnel

PST Products LLC d/b/a Per-Se Technologies_____ CONTRACTOR'S NAME

AGREEMENT	NO
CONTRACT	OR'S FACILITY PROJECT MANAGER:
	Andrea Bouronich
	Project Manager
Address:	300 West Morgan St., Suite 175
	Durham, NC 27701
	_(919)564-2346
	_(919)564-2185
E-Mail Addre	ess:andrea.bouronich@per-se.com
CONTRACT	OR'S PROJECT DIRECTOR
Name:	Linda Horne
Title:	_Vice President of Professional Services
Address:	300 West Morgan St., Suite 175
	Durham, NC 27701
Telephone:	_(919)564-2300
	_(919)564-2185
E-Mail Addr	ress:linda.horne@per-se.com
CONTRAC COUNTY	CTOR'S FACILITY PROJECT MANAGER (S) ON BEHALF OF THE
Name:	
Title:	
Address:	
Telephone:	
Facsimile:	
E-Mail Add	ress:
Name:	
Title:	
Address:	

EXHIBIT G Section II

Telephone: Facsimile: E-Mail Addre	ess:
	ontractor shall be sent to the following address:
Address:	300 West Morgan St., Suite 175 Durham, NC 27701
Telephone: Facsimile: F-Mail Addr	_(919)564-2300 _(919)564-2185 ress: _linda.horne@per-se.com

EXHIBIT H

SOURCE CODE ESCROW AGREEMENT

SAFE ESCROW AGREEMENT



Account Number 1619008-00001 Health

This agreement ("Agreement") is effective November 15, 2000 between DSI Technology Escrow Services, Inc. ("DSI") and PST Products, Inc. d/b/a Per Se acting on behalf of itself and its Corporate Affiliates including, but not limited to Help Data Services, Inc., PST Services, Inc., and Per-Se Transaction Services, Inc. ("Depositor"), who collectively may be referred to in this Agreement as the parties ("Parties") and who are more fully identified in Exhibit A.

- A. Depositor desires to establish an escrow with DSI to provide for the retention, administration and controlled access of the proprietary technology materials of Depositor.
- B. Depositor desires to avoid disclosure of its proprietary technology except under certain limited circumstances.

ARTICLE 1 - DEPOSITS

- 1.1 <u>Obligation to Make Deposit</u>. Upon the signing of this Agreement, Depositor shall deliver to DSI the proprietary technology and other materials ("Deposit Materials") to be deposited under this Agreement.
- 1.2 <u>Identification of Tangible Media</u>. Prior to the delivery of the Deposit Materials to DSI, Depositor shall conspicuously label for identification each document, magnetic tape, disk, or other tangible media upon which the Deposit Materials are written or stored. Additionally, Depositor shall complete Exhibit B to this Agreement by listing each such tangible media by the item label description, the type of media and the quantity. Exhibit B shall be signed by Depositor and delivered to DSI with the Deposit Materials. Unless and until Depositor makes the initial deposit with DSI, DSI shall have no obligation with respect to this Agreement, except the obligation to notify Depositor regarding the status of the account as required in Section 3.2 below.
- 1.3 <u>Deposit Inspection</u>. When DSI receives the Deposit Materials and Exhibit B, DSI will conduct a deposit inspection by visually matching the labeling of the tangible media containing the Deposit Materials to the item descriptions and quantity listed on Exhibit B.
- 1.4 Acceptance of Deposit. At completion of the deposit inspection, if DSI determines that the labeling of the tangible media matches the item descriptions and quantity on Exhibit B, DSI will date and sign Exhibit B and mail a copy thereof to Depositor. If DSI determines that the labeling does not match the item descriptions or quantity on Exhibit B, DSI will (a) note the discrepancies in writing on Exhibit B; (b) date and sign Exhibit B with the exceptions noted; and (c) mail a copy of Exhibit B to Depositor. DSI's acceptance of the deposit occurs upon the signing of Exhibit B by DSI.

- 1.5 <u>Depositor's Representations</u>. Depositor represents as follows:
 - Depositor lawfully possesses all of the Deposit Materials deposited with DSI;
 - b. With respect to all of the Deposit Materials, Depositor has the right and authority to grant to DSI the rights as provided in this Agreement; and
 - c. The Deposit Materials are not subject to any lien or other encumbrance.
 - d. The Deposit Materials are readable and useable in their current form or, if any portion of the Deposit Materials is encrypted, the decryption tools and decryption keys have also been deposited.
- 1.6 <u>Deposit Updates</u>. Updates to the Deposit Materials will be added to the existing deposit. All deposit updates shall be listed on a new Exhibit B and Depositor shall sign the new Exhibit B. Each Exhibit B will be held and maintained separately within the escrow account. An independent record will be created which will document the activity for each Exhibit B. The processing of all deposit updates shall be in accordance with Sections 1.2 through 1.5 above. All references in this Agreement to the Deposit Materials shall include the initial Deposit Materials and any updates.
- 1.7 <u>Removal of Deposit Materials</u>. The Deposit Materials may be removed and/or exchanged only on written instructions signed by Depositor or as otherwise provided in this Agreement.

ARTICLE 2 -- SAFE BENEFICIARY ENROLLMENTS

- 2.1 <u>SAFE Beneficiary</u>. As used in this Agreement ("SAFE Beneficiary") shall mean one or more SAFE Beneficiaries depending on Depositor Enrollment(s), in accordance with Section 2.2.
- 2.2 <u>SAFE Beneficiary Enrollment(s)</u>. After DSI's acceptance of the Deposit Materials, Depositor may enroll one or more beneficiaries under this Agreement. Depositor will execute and submit to DSI a SAFE Beneficiary Enrollment document, referenced in this Agreement as Exhibit C, listing each beneficiary to be enrolled as a SAFE Beneficiary under the Agreement. Upon DSI's acceptance of Exhibit C, or any additional Exhibit C thereto, DSI will issue an enrollment letter to the SAFE Beneficiary.
- 2.3 Other Third Parties. DSI shall have no obligation to any other third party except to a SAFE Beneficiary or SAFE Beneficiaries accepted by DSI. DSI and Depositor shall have the right to modify or cancel the Agreement without the consent of any third party.

ARTICLE 3 - CONFIDENTIALITY AND RECORD KEEPING

- 3.1 Confidentiality. DSI shall maintain the Deposit Materials in a secure, environmentally safe, locked facility which is accessible only to authorized representatives of DSI. DSI shall have the obligation to reasonably protect the confidentiality of the Deposit Materials. Except as provided in this Agreement, DSI shall not disclose, transfer, make available, or use the Deposit Materials. DSI shall not disclose the content of this Agreement to any third party. If DSI receives a subpoena or any other order from a court or other judicial tribunal pertaining to the disclosure or release of the Deposit Materials, DSI will immediately notify Depositor unless prohibited by law. It shall be the responsibility of Depositor to challenge any such order; however, DSI does not waive its rights to present its position with respect to any such order. DSI will not be required to disobey any order from a court or other judicial tribunal. (See Section 8.5 below for notices of requested orders.)
- 3.2 <u>Status Reports.</u> DSI will issue to Depositor a report profiling the account history at least semi-annually. DSI may provide copies of the account history upon request,
- 3.3 <u>Audit Rights</u>. During the term of this Agreement, Depositor shall have the right to inspect the written records of DSI pertaining to this Agreement. Any inspection shall be held during normal business hours and following reasonable prior notice.

ARTICLE 4 -- GRANT OF RIGHTS TO DSI

- 4.1 <u>Title to Media</u>. Depositor hereby transfers to DSI the title to the media upon which the proprietary technology and materials are written or stored. However, this transfer does not include the ownership of the proprietary technology and materials contained on the media such as any copyright, trade secret, patent or other intellectual property rights.
- 4.2 <u>Right to Make Copies</u>. DSI shall have the right to make copies of the Deposit Materials as reasonably necessary to perform this Agreement. DSI shall copy all copyright, nondisclosure, and other proprietary notices and titles contained on the Deposit Materials onto any copies made by DSI. With all Deposit Materials submitted to DSI, Depositor shall provide any and all instructions as may be necessary to duplicate the deposit material including but not limited to the hardware and/or software needed.

ARTICLE 5 - RELEASE OF DEPOSIT

Release of Deposit Copy to a SAFE Beneficiary. Upon receipt by DSI of written instruction(s) directly from Depositor, Depositor's trustee in bankruptcy, or a court of competent jurisdiction, and payment to DSI of any unpaid fees, including deposit copying and delivery fees, DSI will release a copy of the Deposit Materials to the SAFE Beneficiary identified in the instruction(s).

ARTICLE 6 - TERM AND TERMINATION

- 6.1 Term of Agreement. The initial term of this Agreement is for a period of one year. Thereafter, this Agreement shall automatically renew from year-to-year unless (a) Depositor instructs DSI in writing that the Agreement is terminated; or (b) DSI instructs Depositor in writing that the Agreement is terminated for nonpayment in accordance with Section 6.3 or by resignation in accordance with Section 6.4. If the Deposit Materials are subject to another escrow agreement with DSI, DSI reserves the right, after the initial one year term, to adjust the anniversary date of this Agreement to match the then prevailing anniversary date of such other escrow arrangements.
- 6.2 Term of SAFE Beneficiary. Upon receipt by DSI of Depositor's executed Exhibit C, the SAFE Beneficiary will be enrolled for an initial term of one year, unless Depositor instructs DSI to terminate the SAFE Beneficiary earlier. Subsequent enrollment terms shall renew from year-to-year unless (a) Depositor instructs DSI in writing to terminate the SAFE Beneficiary; or (b) the enrollment is terminated by DSI for nonpayment in accordance with Section 6.3.
- 6.3 <u>Termination for Nonpayment</u>. In the event of the nonpayment of fees owed to DSI, DSI shall provide written notice of delinquency to Depositor. If the past due payment is not received in full by DSI within one month of the date of such notice, then DSI shall have the right to terminate this Agreement at any time thereafter by sending written notice of termination to all parties. DSI shall have no obligation to take any action under this Agreement so long as any payment due to DSI remains unpaid.
- 6.4 <u>Termination by Resignation.</u> DSI reserves the right to terminate this Agreement, for any reason, by providing Depositor with 60-days' written notice of its intent to terminate this Agreement. Within the 60-day period, the Depositor may provide DSI with written instructions authorizing DSI to forward the Deposit Materials to an escrow company and/or agent or other designated recipient. If DSI does not receive said written instructions within 60 days of the date of DSI's written termination notice, then DSI shall destroy, return or otherwise deliver the Deposit Materials in accordance with Section 6.5.
- 6.5 <u>Disposition of Deposit Materials Upon Termination</u>. Subject to the foregoing termination provisions and upon termination of this Agreement, DSI shall destroy, return, or otherwise deliver the Deposit Materials in accordance with Depositor's instructions. If there are no instructions, DSI may, at its sole discretion, destroy the Deposit Materials or return them to Depositor. DSI shall have no obligation to destroy or return the Deposit Materials if the Deposit Materials are subject to another escrow agreement with DSI or have been released to the SAFE Beneficiary, in accordance with Section 5.1

- 6.6 <u>Survival of Terms Following Termination</u>. Upon termination of this Agreement, the following provisions of this Agreement shall survive:
 - Depositor's Representations (Section 1.5);
 - b. The obligations of confidentiality with respect to the Deposit Materials;
 - c. The obligation to pay DSI any fees and expenses due;
 - d. The provisions of Article 8; and
 - e. Any provisions in this Agreement which specifically state they survive the termination of this Agreement.

ARTICLE 7 -- DSI'S FEES

- 7.1 <u>Fee Schedule</u>. DSI is entitled to be paid its standard fees and expenses applicable to the services provided. DSI shall notify Depositor at least 60 days prior to any increase in fees. For any service not listed on DSI's standard fee schedule, DSI will provide a quote prior to rendering the service, if requested.
- 7.2 <u>Payment Terms</u>. DSI shall not be required to perform any service unless the payment for such service and any outstanding balances owed to DSI are paid in full. Fees are due upon receipt of a signed contract or receipt of the Deposit Materials whichever is earliest. If invoiced fees are not paid, DSI may terminate this Agreement in accordance with Section 6.3.

ARTICLE 8 -- LIABILITY AND DISPUTES

- Right to Rely on Instructions. DSI may act in reliance upon any instruction, instrument, or signature reasonably believed by DSI to be genuine. DSI may assume that any employee of Depositor who gives any written notice, request, or instruction has the authority to do so. DSI will not be required to inquire into the truth or evaluate the merit of any statement or representation contained in any notice or document. DSI shall not be responsible for failure to act as a result of causes beyond the reasonable control of DSI.
- 8.2 <u>Indemnification</u>. Depositor agrees to indemnify, defend and hold harmless DSI from any and all claims, actions, damages, arbitration fees and expenses, costs, attorney's fees and other liabilities ("Liabilities") incurred by DSI relating in any way to this escrow arrangement unless such Liabilities were caused solely by the negligence or willful misconduct of DSI.

- 8.3 <u>Dispute Resolution</u>. Any dispute relating to or arising from this Agreement shall be resolved by arbitration under the Commercial Rules of the American Arbitration Association. Three arbitrators shall be selected. The Depositor and SAFE Beneficiary shall each select one arbitrator and the two chosen arbitrators shall select the third arbitrator, or failing agreement on the selection of the third arbitrator, the American Arbitration Association shall select the third arbitrator. However, if DSI is a party to the arbitration, DSI shall select the third arbitrator. Unless otherwise agreed by Depositor and SAFE Beneficiary, arbitration will take place in San Diego, California, U.S.A. Any court having jurisdiction over the matter may enter judgment on the award of the arbitrator(s). Service of a petition to confirm the arbitration award may be made by First Class mail or by commercial express mail, to the attorney for the party or, if unrepresented, to the party at the last known business address.
- 8.4 <u>Controlling Law.</u> This Agreement is to be governed and construed in accordance with the laws of the State of California, without regard to its conflict of law provisions.
- 8.5 <u>Notice of Requested Order</u>. If any party intends to obtain an order from the arbitrator or any court of competent jurisdiction which may direct DSI to take, or refrain from taking any action, that party shall:
 - a. Give DSI at least two business days' prior notice of the hearing;
 - b. Include in any such order that, as a precondition to DSI's obligation, DSI be paid in full for any past due fees and be paid for the reasonable value of the services to be rendered pursuant to such order; and
 - c. Ensure that DSI not be required to deliver the original (as opposed to a copy) of the Deposit Materials if DSI may need to retain the original in its possession to fulfill any of its other duties.

ARTICLE 9 -- GENERAL PROVISIONS

- 9.1 Entire Agreement. This Agreement, which includes the Exhibits described herein, embodies the entire understanding between the parties with respect to its subject matter and supersedes all previous communications, representations or understandings, either oral or written. No amendment or modification of this Agreement shall be valid or binding unless signed by both parties hereto, except Exhibit A need not be signed by either party.
- 9.2 <u>Notices</u>. All notices, invoices, payments, deposits and other documents and communications shall be given to the parties at the addresses specified in the attached Exhibit A. It shall be the responsibility of the parties to notify each other as provided in this Section in the event of a change of address. The parties shall have the right to rely on the last known address of the other parties. Unless otherwise provided in this Agreement, all documents and communications may be delivered by First Class mail.

- 9.3 <u>Severability</u>. In the event any provision of this Agreement is found to be invalid, voidable or unenforceable, the parties agree that unless it materially affects the entire intent and purpose of this Agreement, such invalidity, voidability or unenforceability shall affect neither the validity of this Agreement nor the remaining provisions herein, and the provision in question shall be deemed to be replaced with a valid and enforceable provision most closely reflecting the intent and purpose of the original provision.
- 9.4 <u>Successors</u>. This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the parties. However, DSI shall have no obligation in performing this Agreement to recognize any successor or assign of Depositor unless DSI receives clear, authoritative and conclusive written evidence of the change of parties.
- 9.5 <u>Regulations</u>. Depositor is responsible for and warrants compliance with all applicable laws, rules and regulations, including but not limited to customs laws, import, export, and reexport laws and government regulations of any country from or to which the Deposit Materials may be delivered in accordance with the provisions of this Agreement.

PST Products, Inc. d/b/a "Per-Se" acting on behalf of itself and its Corporate Affiliates including, but not limited to Health Data Services, Inc., PST Services, Inc., and Per-Se Transaction Services, Inc.

DSI Technology Escrow Services, Inc.

Depositor

271

Name: Louis C. Parker, III

Title: Vice President, Legal Services

Date: As of November 15, 2000

By: Suiste Worder

Name: Christic Wordward

Title: Director, Confracto luminostrutur

Date: as of (1/15/00)

BUSINESS ASSOCIATE PROTECTED HEALTH INFORMATION DISCLOSURE AGREEMENT

	, Business Associate
This Business Associate Protected Health entered into effective this day of County of Los Angeles ("Covered Entity" or "Co corporation ("Business Associate Protected Health entered into effective this day of	In Information Disclosure Agreement ("Agreement") is, 2005 ("Effective Date") by and between the punty") and, a ciate" or "Contractor").

RECITALS

WHEREAS, the parties have executed a Client Management System Agreement ("Services Agreement"), whereby Business Associate provides Services to Covered Entity, and Business Associate receives, has access to or creates Protected Health Information in order to provide those Services;

WHEREAS, Covered Entity is subject to the Administrative Simplification requirements of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), and regulations promulgated thereunder, including the Standards for Privacy of Individually Identifiable Health Information (the "Privacy Regulations") and the Health Insurance Reform: Security Standards (the "Security Regulations") at 45 Code of Federal Regulations Parts 160 and 164 ("Privacy Regulations") (together, the "Privacy and Security Regulations");

WHEREAS, the Privacy and Security Regulations require Covered Entity to enter into a contract with Business Associate in order to mandate certain protections for the privacy and security of Protected Health Information, and those Regulations prohibit the disclosure to or use of Protected Health Information by Business Associate if such a contract is not in place;

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

DEFINITIONS

- "Disclose" and "Disclosure" mean, with respect to Protected Health Information, the release, transfer, provision of access to, or divulging in any other manner of Protected Health Information outside Business Associate's internal operations or to other than its employees.
- "Electronic Media" has the same meaning as the term "electronic media" in 45 C.F.R. §160.103. 1.2 Electronic Media means (1) electronic storage media including memory devices in computers (hard drives) and any removable/transportable digital memory medium, such as magnetic tape or disk, optical disk or digital memory card; or (2) transmission media used to exchange information already in electronic storage media. Transmission media include, for example, the internet (wide-open), extranet

(using internet technology to link a business with information accessible only to collaborating parties), leased lines, dial-up lines, private networks and the physical movement of removable/transportable electronic storage media. Certain transmissions, including of paper, via facsimile and of voice, via telephone, are not considered to be transmissions via electronic media, because the information being exchanged did not exist in electronic form before the transmission. The term "Electronic Media" draws no distinction between internal and external data at rest (that is, in storage) as well as during transmission.

- 1.3 "Electronic Protected health Information" has the same meaning as the term "electronic protected health information" in 45 C.F.R. § 160.103. Electronic Protected Health Information means Protected Health Information that is (i) transmitted by electronic media; or (ii) maintained in Electronic Media.
- "Individual" means the person who is the subject of Protected Health Information and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. § 164.502(g).
- 1.5 "Protected Health Information" has the same meaning as the term "protected health information" in 45 C.F.R. § 164.501, limited to the information created or received by Business Associate from or on behalf of Covered Entity. Protected Health Information includes information that (i) relates to the past, present or future physical or mental health or condition of an Individual; the provision of health care to an Individual, or the past, present or future payment for the provision of health care to an Individual; (ii) identifies the Individual (or for which there is a reasonable basis for believing that the information can be used to identify the Individual); and (iii) is received by Business Associate from or on behalf of Covered Entity, or is created by Business Associate, or is made accessible to Business Associate by Covered Entity. Protected Health Information includes Electronic Health Information.
- 1.6 "Required By Law" means a mandate contained in law that compels an entity to make a Use or Disclosure of Protected Health Information and that is enforceable in a court of law. Required by law includes, but is not limited to, court orders and court-ordered warrants; subpoenas or summons issued by a court, grand jury, a governmental or tribal inspector general, or any administrative body authorized to require the production of information; a civil or an authorized investigative demand; Medicare conditions of participation with respect to health care providers participating in the program; and statutes or regulations that require the production of information, including statutes or regulations that require such information if payment is sought under s government program providing benefits.
- 1.7 "Security Incident" means the attempted or successful unauthorized access, Use, Disclosure, modification or destruction of information in, or interference with system operations of, an information system which contains Electronic Protected Health Information. However, Security Incident does not include attempts to access an information system when those attempts are not reasonably considered by Business Associate to constitute an actual threat to the information system.
- 1.8 "Services" the work performed under the Services Agreement.
- 1.9 "<u>Use</u>" or "<u>Uses</u>" mean, with respect to Protected Health Information, the sharing, employment,

application, utilization, examination or analysis of such Information within Business Associate's internal operations.

Terms used, but not otherwise defined, in this Agreement and the Services Agreement shall have the same meaning as those terms in the Privacy and Security Regulations.

OBLIGATIONS OF BUSINESS ASSOCIATE

- 2.1 <u>Permitted Uses and Disclosures of Protected Health Information</u>. Business Associate:
 - (a) shall Use and Disclose Protected Health Information as necessary to perform the Services, and as provided in Sections 2.3, 2.4, 2.5, 2.6, 2.7, 2.8, 4.3 and 5.2 of this Agreement;
 - (b) shall Disclose Protected Health Information to Covered Entity upon request;
 - (c) may, as necessary for the proper management and administration of its business or to carry out its legal responsibilities:
 - (i) Use Protected Health Information; and
 - (ii) Disclose Protected Health Information if the Disclosure is Required by Law.

Business Associate shall not Use or Disclose Protected Health Information for any other purpose.

- 2.2 <u>Adequate Safeguards for Protected Health Information</u>.
- (a) Business Associate warrants that it shall implement and maintain appropriate safeguards to prevent the Use or Disclosure of Protected Health Information in any manner other than as permitted by this Agreement. Business Associate agrees to limit the Use and Disclosure of Protected Health Information to the minimum necessary in accordance with the Privacy and Security Regulation's minimum necessary standard.
- (b) effective as of April 20, 2005, specifically as to Electronic Health Information, shall implement and maintain administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of Electronic Protected Health Information.
- Reporting Non-Permitted Use or Disclosure. Business Associate shall report to Covered Entity each Use or Disclosure that is made by Business Associate, its employees, representatives, agents or subcontractors but is not specifically permitted by this Agreement, and, effective as of April 20, 2005, each Security Incident of which Business Associate becomes aware. The initial report shall be made by telephone call to the applicable Department Privacy Officer within forty-eight (48) hours from the time the Business Associate becomes aware of the non-permitted Use or Disclosure or Security Incident, followed by a full written report no later than ten (10) business days from the date the Business Associate becomes aware of the non-permitted Use or Disclosure or Security Incident to the Chief

Privacy Officer at:

Chief Privacy Officer
Kenneth Hahn Hall of Administration
500 West Temple St.
Suite 525
Los Angeles, CA 90012

- 2.4 <u>Mitigation of Harmful Effect</u>. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a Use or Disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement.
- 2.5. <u>Availability of Internal Practices</u>, <u>Books and Records to Government Agencies</u>. Business Associate agrees to make its internal practices, books and records relating to the Use and Disclosure of Protected Health Information available to the Secretary of the federal Department of Health and Human Services for purposes of determining Covered Entity's compliance with the Privacy Regulations. Business Associate shall immediately notify Covered Entity of any requests made by the Secretary and provide Covered Entity with copies of any documents produced in response to such request.
- Access to Protected Health Information. Business Associate shall, to the extent Covered Entity determines that any Protected Health Information constitutes a "designated record set" as defined by 45 C.F.R. § 164.501, make the Protected Health Information specified by Covered Entity available to the Individual(s) identified by Covered Entity as being entitled to access and copy that Protected Health Information. Business Associate shall provide such access for inspection of that Protected Health Information within two (2) business days after receipt of request from Covered Entity. Business Associate shall provide copies of that Protected Health Information within five (5) business days after receipt of request from Covered Entity.
- Amendment of Protected Health Information. Business Associate shall, to the extent Covered Entity determines that any Protected Health Information constitutes a "designated record set" as defined by 45 C.F.R. § 164.501, make any amendments to Protected Health Information that are requested by Covered Entity. Business Associate shall make such amendment within ten (10) business days after receipt of request from Covered Entity in order for Covered Entity to meet the requirements under 45 C.F.R. § 164.526.
- Accounting of Disclosures. Business Associate agrees to maintain documentation of the information required to provide an accounting of Disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528 and to make this information available to Covered Entity upon Covered Entity's request, in order to allow Covered Entity to respond to an Individual's request for accounting of Disclosures. However, Business Associate is not required to provide accounting of Disclosures that are necessary to perform its Services if such Disclosures are for either payment or health care operations purposes, or both. Additionally, such accounting is limited to Disclosures that were made in the six (6) years prior to the request (not including Disclosures that were made prior to the compliance date of the Privacy Rule, April 14, 2003) and shall be provided for as long as Business Associate maintains the Protected Health Information.

Any accounting provided by Business Associate under this Section 2.8 shall include: (a) the date of the Disclosure; (b) the name, and address if known, of the entity or person who received the Protected Health Information; (c) a brief description of the Protected Health Information disclosed; and (d) a brief statement of the purpose of the Disclosure. For each Disclosure that could require an accounting under this Section 2.8, Business Associate shall document the information specified in (a) through (d), above, and shall securely maintain the information for six (6) years from the date of the Disclosure. Business Associate shall provide to Covered Entity, within ten (10) business days after receipt of request from Covered Entity, information collected in accordance with this Section 2.8 to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528.

OBLIGATION OF COVERED ENTITY

3.1 <u>Obligation of Covered Entity</u>. Covered Entity shall notify Business Associate of any current or future restrictions or limitations on the use of Protected Health Information that would affect Business Associate's performance of the Services, and Business Associate shall thereafter restrict or limit its own uses and disclosures accordingly.

TERM AND TERMINATION

- 4.1 <u>Term.</u> The term of this Agreement shall be the same as the term of the Services Agreement. Business Associate's obligations under Sections 2.1 (as modified by Section 4.2), 2.3, 2.4, 2.5, 2.6, 2.7, 2.8, 4.3 and 5.2 shall survive the termination or expiration of this Agreement.
- 4.2 <u>Termination for Cause</u>. In addition to and notwithstanding the termination provisions set forth in the Services Agreement, upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:
 - (a) Provide an opportunity for Business Associate to cure the breach or end the violation and terminate this Agreement and the Services Agreement if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity;
 - (b) Immediately terminate this Agreement and the Services Agreement if Business Associate has breached a material term of this Agreement and cure is not possible; or
 - (c) If neither termination nor cure are feasible, Covered Entity shall report the violation to the Secretary of the federal Department of Health and Human Services.
- 4.3 <u>Disposition of Protected Health Information Upon Termination or Expiration</u>.
 - (a) Except as provided in paragraph (b) of this Section 4.3, upon termination for any reason or expiration of this Agreement and the Services Agreement, Business Associate shall return or destroy all Protected Health Information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to Protected

Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.

(b) In the event that Business Associate determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make infeasible. If return or destruction is infeasible, Business Associate shall extend the protections of this Agreement to such Protected Health Information and limit further Uses and Disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

MISCELLANEOUS

- 5.1 <u>No Third Party Beneficiaries</u>. Nothing in this Agreement shall confer upon any person other than the parties and their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.
- 5.2 <u>Use of Subcontractors and Agents</u>. Business Associate shall require each of its agents and subcontractors that receive Protected Health Information from Business Associate, or create Protected Health Information for Business Associate, on behalf of Covered Entity, to execute a written agreement obligating the agent or subcontractor to comply with all the terms of this Agreement.
- 5.3 <u>Relationship to Services Agreement Provisions</u>. In the event that a provision of this Agreement is contrary to a provision of the Services Agreement, the provision of this Agreement shall control. Otherwise, this Agreement shall be construed under, and in accordance with, the terms of the Services Agreement.
- 5.4 <u>Regulatory References</u>. A reference in this Agreement to a section in the Privacy and/or Security Regulations means the section as in effect or as amended.
- 5.5 <u>Interpretation</u>. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Covered Entity to comply with the Privacy and Security Regulations.
- 5.6 <u>Amendment</u>. The parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy and Security Regulations.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the date stated above.

CONTRACTOR:	COUNTY OF LOS ANGELES:
By:	Ву:
Title:	Title:
Dated:	Dated:

No shame. No blame. No names.

Newborns can be safely given up at any Los Angeles County hospital emergency room or fire station.



In Los Angeles County: 1-877-BABY SAFE 1-877-222-9723 www.babysafela.org



State of California Gray Davis, Governor

Health and Human Services Agency Grantland Johnson, Secretary

Department of Social Services Rita Saery, Director



Los Angeles County Board of Supervisors

Gloria Molina, Supervisor, First District Yvonne Brathwaite Burke, Supervisor, Second District Zev Yaroslavsky, Supervisor, Third District Don Knabe, Supervisor, Fourth District Michael D. Antonovich, Supervisor, Fifth District

This initiative is also supported by First 5 LA and INFO LINE of Los Angeles.

SAFELY SURRENDERED BABY LAW

What is the Safely Surrendered Baby Law?

California's Safely Surrendered Baby Law allows parents to give up their baby confidentially. As long as the baby has not been abused or neglected, parents may give up their newborn without fear of arrest or prosecution.

How does it work?

A distressed parent who is unable or unwilling to care for a baby can legally, confidentially and safety give up a baby within three days of birth. The baby must be handed to an employee at a Los Angeles County emergency room or fire station. As long as the child shows no signs of abuse or neglect, no name or other information is required. In case the parent changes his or her mind at a later date and wants the baby back, workers will use bracelets to help connect them to each other. One bracelet will be placed on the baby, and a matching bracelet will be given to the parent.

What if a parent wants the baby back?

Parents who change their minds can begin the process of redaiming their newborns within 14 days. These parents should call the Los Angeles County Department of Children and Family Services at 1-800-540-4000.

Can only a parent bring in the baby?

In most cases, a parent will bring in the baby. The law allows other people to bring in the baby if they have legal custody.

Does the parent have to call before bringing in the baby? No. A parent can bring in a baby anytime, 24 hours a day, 7 days a week so long as the parent gives the baby to someone who works at the hospital or fire station.

Does a parent have to tell anything to the people taking the baby?

No. However, hospital personnel will ask the parent to fill out a questionnaire designed to gather important medical history information, which is very useful in caring for the child. Although encouraged, filling out the questionnaire is not required.

What happens to the baby?

The baby will be examined and given medical treatment, if needed. Then the baby will be placed in a pre-adoptive home.

What happens to the parent?

Once the parentis) has safely turned over the baby, they are free to go.

Why is California doing this?

The purpose of the Safely Surrendered Baby Law is to protect babies from being abandoned by their parents and potentially being hurt or killed. You may have heard tragic stories of babies left in dumpsters or public bathrooms. The parents who committed these acts may have been under severe emotional distress. The mothers may have hidden their pregnancies, fearful of what would happen if their families found out. Because they were afraid and had nowhere to turn for help, they abandoned their infants. Abandoning a baby puts the child in extreme danger. It is also llegal. Too often, it results in the baby's death. Because of the Safely Surrendered Baby Law, this tragedy doesn't ever have to happen in California again.

A baby's story

At 8:30 a.m. on Thursday, July 25, 2002, a healthy newborn baby was brought to St. Bernardine Medical Center in San Bernardino under the provisions of the California Safely Surrendered Baby Law. As the law states, the baby's mother did not have to identify herself. When the baby was brought to the emergency room, he was examined by a pediatrician, who determined that the baby was healthy and doing fine. He was placed with a loving family while the adoption process was started.

Every baby deserves a chance for a healthy life. If someone you know is considering abandoning a newborn, let her know there are other options.

It is best that women seek help to receive proper medical care and counseling while they are pregnant. But at the same time, we want to assure parents who choose not to keep their baby that they will not go to jail if they deliver their babies to safe hands in any Los Angeles County hospital ER or fire station.

Sin pena. Sin culpa. Sin peligro.

Los recién nacidos pueden ser entregados en forma segura en la sala de emergencia de cualquier hospital o en un cuartel de bomberos del Condado de Los Angeles.



En el Condado de Los Angeles: 1-877-BABY SAFE 1-877-222-9723 www.babysafela.org



Estado de California Gray Davis, Gobernador

Agencia de Salud y Servicios Humanos (Beath and Human Services Agency) Grantland Johnson, Secretario

Departamento de Servicios Sociales (Department of Social Services) Rita Saenz, Directora



Consejo de Supervisores del Condado de Los Angeles Gloria Molina, Supervisora, Primer Distrito Yvonne Brathwalte Burke, Supervisora, Segundo Distrito Zev Yaroslavsky, Supervisor, Tercer Distrito Don Knabe, Supervisor, Cuarto Distrito Michael D. Antonovich, Supervisor, Quinto Distrito

Esta Iniciativa también esta apollada por First 5 LA y INFO LINE de Los Angeles.

SAFELY SURRENDERED BABY LAW

¿Qué es la Ley de Entrega de Bebés Sin Peligro?

La Ley de Entrega de Bebés Sin Peligro de California permite
a los padres entregar a su recién nacido confidencialmente.

Siempre que el bebé no haya sufrido abuso ni negligencia,
padres pueden entregar a su recién nacido sin temor a ser
arrestados o procesados.

¿Cómo funciona?

El padre/madre con dificultades que no pueda o no quiera cuidar de su recién nacido puede entregarlo en forma legal, confidencial y segura, dentro de los tres días del nacimiento. El bebé debe ser entregado a un empleado de una sala de emergencias o de un cuartel de bomberos del Condado de Los Angeles. Siempre que el bebé no presente signos de abuso o negligencia, no será necesario suministrar nombres ni información alguna. Si el padre madre cambia de opinión posieriormente y desea recuperar a su bebé, los trabajadores utilizarán brazaletes para poder vincularlos. El bebé llevará un brazalete y el padre/madre recibirá un brazalete igual.

¿Qué pasa si el padre/madre desea recuperar a su bebé?

Los padres que cambien de opinión pueden empezar el proceso de reclamar a su recién nacido dentro de los 14 días. Estos padres deberán llamar al Departamento de Servicios para Niños y Familias (Department of Children and Family Services) del Condado de Los Angeles, al 1-800-540-4000.

¿Sólo los padres podrán llevar al recién nacido? En la mayoría de los casos, los padres son los que llevan al bebé. La ley permite que otras personas lleven al bebé si tienen la custodia legal del menor.

¿Los paches deben llamar antes de llevar al bebé? No. El padre/madre puede llevar a su bebé en cualquier momento, las 24 horas del día, los 7 días de la semana, mientras que entregue a su bebé a un empleado del hospital o de un cuartel de bomberos.

¿Es necesario que el padre/madre diga algo a las personas que reciben al bebê?

No. Sin embargo, el personal del hospital le pedirá que llene un cuestionario con la finalidad de recabar antecedentes médicos importantes, que resultan de gran utilidad para los cuidados que recibirá el bebé. Es recomendado llenar este cuestionario, pero no es obligatorio hacerlo.

¿Qué ocurrira con el bebé?

El bebé sera examinado y, de ser necesario, recibirá tratamiento médico. Luego el bebé se entregará a un ficgar preadoptivo. ¿Qué pasará con el padre/madre? Una vez que los padres hayan entregado a su bebé en forma segura, serán libres de irse.

¿Por qué California hace esto?

La finalidad de la Ley de Entrega de Bebés Sin Peligro es proteger a los bebés del abandono por parte de sus padres y de la posibilidad de que mueran o sufran daños. Usted probablemente haya escuchado historias trágicas sobre bebés abandonados en basureros o en baños públicos. Es posible que los padres que cometieron estos actos hayan estado atravesando dificultades emocionales graves. Las madres pueden haber ocultado su embarazo, por temor a lo que pasaría si sus familias se enteraran. Abandonaron a sus recién nacidos porque tenían miedo y no tenían adonde recurrir para obtener ayuda. El abandono de un recién nacido lo pone en una situación de peligro extremo. Además es ilegal. Muy a menudo el abandono provoca la muerta del bebé. Ahora, gracias a la Ley de Entrega de Bebés Sin Peligro, esta tragedia ya no debe suceder nunca más en California.

Historia de un bebé

A las 8:30 a.m. del jueves 25 de julio de 2002, se entregó un bebé recién nacido saludable en el St. Bernardine Medical Center en San Bernardino, en virtud de las disposiciones de la Ley de Entrega de Bebés Sin Peligro. Como lo establece la ley, la madre del bebé no se tuvo que identificar. Cuando el bebé llegó a la sala de emergencias, un pediatra lo revisó y determino que el bebé estaba saludable y no tenía problemas. El bebé fue ubicado con una buena familia, mientras se iniciaban los trámites de adopción.

Cada recién nacido merece una oportunidad de tener una vida saludable. Si alguien que usted conoce está pensando en abandonar a un recién nacido, informele qué otras opciones tiene.

Es mejor que las mujeres busquen ayuda para recibír atención médica y asesoramiento adecuado durante el embarazo. Pero al mismo tiempo, queremos asegurarles a los padres que optan por no quedarse con su bebé que no trán a la cárcel si dejan a sus bebés en buenas manos en cualquier sala de emergencia de un hospital o en un cuartel de bomberos del Condado de Los Angeles.